

EXHIBIT 6

1 IN THE UNITED STATES DISTRICT FOR
2 THE MIDDLE DISTRICT OF TENNESSEE
3 NASHVILLE DIVISION

4 DAN MCCALED, Executive Editor of
5 THE CENTER SQUARE,

6 Plaintiff,

7 vs.

8 Case No. 3:22-cv-00439

9 MICHELLE LONG, in her official
10 capacity as DIRECTOR of the
11 TENNESSEE ADMINISTRATIVE OFFICE
12 OF THE COURTS,

13 Defendant.

14
15 Deposition of:

16 RACHEL HARMON

17 Taken on behalf of the Plaintiff
18 October 24, 2023
19 Commencing at 9:09 a.m. CST

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21
22
23 Lexitas Legal
24 Jenny Checuga, LCR, RPR
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E X H I B I T S

(None marked.)

1 S T I P U L A T I O N S
2
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4 The deposition of RACHEL HARMON was taken
5 by counsel for the Plaintiff, at the offices of
6 500 Charlotte Avenue, Nashville, Tennessee, on
7 October 24, 2023, by Notice for all purposes
8 under the Federal Rules of Civil Procedure.

9 All formalities as to caption, notice,
10 statement of appearance, et cetera, are waived.
11 All objections, except as to the form of the
12 questions, are reserved to the hearing, and
13 that said deposition may be read and used in
14 evidence in said cause of action in any trial
15 thereon or any proceeding herein.

16 It is agreed that JENNIFER CHECUGA, LCR,
17 RPR, and Court Reporter for the State of
18 Tennessee, may swear the witness, and that the
19 reading and signing of the completed deposition
20 by the witness are not waived.
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* * *

RACHEL HARMON,
was called as a witness, and having first been
duly sworn, testified as follows:

EXAMINATION

QUESTIONS BY MR. DOUGHERTY:

Q. Good morning.

A. Good morning.

Q. We just met, my name is a Buck Dougherty,
I'm the attorney in this case on behalf of Dan
McCaleb.

Go ahead and state your name for the
record.

A. Rachel Harmon.

Q. Ms. Harmon, have you ever had your
deposition taken before today?

A. I have not.

Q. Okay. You were just sworn in, and do you
understand that you're under oath today?

A. Yes.

Q. Are you prepared to answer the questions
that I ask of you today?

A. Yes.

Q. All right. Just some introduction kind

1 of background.

2 Did you take any medications today before
3 your deposition that could affect your ability
4 to give honest and truthful answers?

5 A. No.

6 Q. And at any time you can certainly inform
7 me if you do not understand a question that I
8 ask of you; do you understand that?

9 A. Yes.

10 Q. Okay. And also, if you want to take a
11 break at any point, you can inform me and we
12 can take a break, okay?

13 A. Okay.

14 Q. The only caveat with that that I would
15 just say that is if I've already asked a
16 question and you haven't given an answer, I
17 would -- we would want you to give the answer,
18 then we can take the break; do you understand?

19 A. Understood.

20 Q. Okay. So those are kind of the
21 procedures. Let's go ahead and get into some
22 background information.

23 How old are you and what is your date of
24 birth?

25 A. I'm 45, July 16, 1978.

1 Q. Where do you currently work?

2 A. With the Administration Office of the
3 Courts.

4 Q. Is that the Tennessee Administration
5 Office of the Courts?

6 A. It's the Tennessee Supreme Court
7 Administration Office of the Courts.

8 Q. And you're aware there's also a Federal
9 Administration Office of the Courts?

10 A. I am.

11 Q. And what is your current position with
12 the Tennessee AOC office?

13 A. Deputy director.

14 Q. Deputy director?

15 A. Yes.

16 Q. And when did you become the deputy
17 director?

18 A. March 2022. Hang on. Yes, March 2022.

19 Q. March 2022?

20 A. Uh-huh.

21 Q. And is the deputy director position, is
22 that an elected office?

23 A. No.

24 Q. Is that appointed by anyone or any body
25 of agency or something like that?

1 A. No.

2 Q. Okay. So were you just promoted from
3 your previous position?

4 A. Yes.

5 Q. And -- so March 2022 until today. And
6 what -- what did you do before your appointment
7 or your promotion to deputy director?

8 A. I was general counsel with the
9 Administrative Office of the Courts.

10 Q. And what -- what was the time frame in
11 your role as general counsel?

12 A. I began in December 2015 and my final
13 month was July of 2022.

14 Q. There seems to be some overlap or maybe I
15 misunderstood.

16 A. There is overlap.

17 Q. Okay, can you explain, because as I
18 understand it -- understood it that you became
19 deputy director in March of 2022, but you
20 apparently were also still simultaneously in
21 your role as general counsel?

22 A. I held a dual role.

23 Q. So for how many months did you hold a
24 dual role?

25 A. From March of 2022 to July 2022.

1 Q. Is there any reason for that?

2 A. The general counsel position was vacant
3 because I had been promoted.

4 MR. DOUGHERTY: And I know we have
5 the current general counsel here today. I'd
6 like for him to go ahead and introduce himself
7 and state whatever you want to state on the
8 record.

9 MR. COKE: John Coke, General Counsel
10 of the Tennessee Administration Office of the
11 Courts.

12 MR. DOUGHERTY: And as I understand,
13 Mr. Coke, you haven't entered an appearance in
14 the case, but you're here with Ms. Harmon
15 today?

16 MR. COKE: Yes, sir.

17 BY MR. DOUGHERTY:

18 Q. Okay. Did you work at the Tennessee AOC
19 office prior to December 15th?

20 A. No.

21 Q. What did you do prior to going to the AOC
22 office?

23 A. I worked in the Tennessee Attorney
24 General's Office.

25 Q. And how long were you there?

1 A. I joined in November 2006 and left in
2 November 2015.

3 Q. And what was your position or positions
4 at the Tennessee AOG's Office?

5 A. I had two. I was appointed initially as
6 an assistant attorney general and then after a
7 number of years and a certain amount of
8 experience I was promoted to senior attorney --
9 senior assistant attorney general.

10 Q. Okay. What -- my understanding is they
11 have different divisions. Were you assigned to
12 a particular division?

13 A. I was.

14 Q. And what division was that?

15 A. The first division I worked in was the
16 Criminal Justice Division. The second division
17 I worked in was the Civil Litigation and State
18 Services Division.

19 Q. And in your role in the Criminal Justice
20 Division, what were your duties?

21 A. Primarily handling criminal appeals in
22 the Court of Criminal Appeals and the Tennessee
23 Supreme Court.

24 Q. And then how about your civil litigation
25 experience, what were your duties?

1 A. Various civil litigation in both state
2 and federal courts, typically relating to human
3 resources and employment matters, as well as
4 contract disputes, things of that nature. It
5 was very general civil.

6 Q. Did you ever do anything with open
7 meetings or open records?

8 A. While at the Attorney General's Office?

9 Q. Yes.

10 A. No.

11 Q. Did you -- while at the Attorney
12 General's Office, did you ever handle any First
13 Amendment disputes?

14 A. Not that I recall.

15 Q. Okay. Obviously you're an attorney, I
16 just want to go through some background on your
17 education.

18 You have a college degree?

19 A. Yes.

20 Q. And school and your graduation year is
21 fine, if you'd like to give that.

22 A. From undergraduate?

23 Q. Yes, please.

24 A. Sure. Would have been May of 2001.

25 Q. What school did you graduate from?

1 A. University of South Carolina.

2 Q. How about law school?

3 A. Graduated in May of 2004 from Florida
4 Coastal School of Law.

5 Q. And where is Florida Coastal School of
6 Law?

7 A. Jacksonville.

8 Q. 2004?

9 A. Yes.

10 Q. What state bars are you admitted to? If
11 you can provide the year, that would be
12 helpful?

13 A. Sure. October 2004 in Tennessee.

14 Q. Are you admitted into any federal
15 district courts or courts of appeals or the
16 supreme court of the United States?

17 A. Yes. The three divisions in Tennessee,
18 Circuit Court of appeals and Supreme Court of
19 the United States.

20 Q. Have you ever been formally disciplined
21 by a state bar licensing authority?

22 A. No.

23 Q. Have you ever been convicted of a crime?

24 A. No.

25 Q. Have you ever been defendant -- excuse

1 me.

2 Have you ever been a defendant in a civil
3 lawsuit before?

4 A. No.

5 Q. Have you ever been a plaintiff in a civil
6 lawsuit before?

7 A. No.

8 Q. Other than your participation as an
9 attorney, have you been involved in any legal
10 claims or lawsuits of any sort?

11 A. No.

12 Q. And just to make it clear, is it your
13 understanding -- are you represented by counsel
14 here today?

15 A. Yes.

16 Q. And who is that?

17 A. Our internal counsel is John Coke,
18 immediately to my right, and our litigation
19 counsel is Mike Stahl to his right.

20 Q. Okay. Just a couple more kind of
21 introductory and background questions before we
22 get into the main part of your deposition.

23 You're a nonparty to this lawsuit; you
24 understand that?

25 A. Yes.

1 Q. And under federal statutes, you're
2 entitled to receive a daily fee for your
3 attendance here at this deposition and you're
4 also entitled to receive certain mileage
5 reimbursement.

6 So what was your daily mileage fee so we
7 can calculate that to send you a check? When
8 you came round trip today to this deposition.

9 A. I don't know that that's necessary
10 because my office is two blocks away and I was
11 coming to my office anyway.

12 Q. Okay. So you walked over, you didn't
13 take a car?

14 A. No.

15 Q. Okay. So you would have a daily fee and
16 what -- who should I send that check to from
17 our office in Chicago and where should I send
18 that to?

19 A. I guess you can send it to me at my
20 office.

21 Q. Okay. And I can copy Mr. Stahl and
22 Mr. Coke. I don't know I can get your e-mail,
23 but I can do that, I just want to get those
24 things out of the way.

25 Are you familiar with the Advisory

1 Commission on the Rules of Practice and
2 Procedure created by TCA 16-3-601?

3 A. Yes.

4 Q. What did you first become aware of that
5 particular statute?

6 A. Within my first year as general counsel
7 of the AOC.

8 Q. And what year was that, just to make it
9 clear?

10 A. Because I started in December of 2015, I
11 would suggest that 2016 would be when I really
12 learned about it.

13 Q. In the calendar year?

14 A. In the calendar year 2016.

15 Q. And what do you recall from your time in
16 2016 learning about that particular commission?

17 A. At the time the then administrative
18 director of the AOC asked me to attend as many
19 meetings hosted at our office as possible so
20 that I can get familiarity with them. I'm
21 going to call it, for purposes of brevity, the
22 Rules Commission, that's what we typically
23 refer to it as to avoid saying that long name
24 over and over again, but the Rules Commission
25 was one of the meetings that I attended in

1 2016.

2 Q. And today, if you just -- when we refer
3 to it, if you want to say Advisory Commission
4 or Commission, I think that's fine; can we
5 agree on that?

6 A. Sure.

7 Q. And I believe when you look at the rules,
8 when the Advisory Commission lists comments, do
9 they refer to themselves as the Advisory
10 Commission? Is it your understanding -- are
11 you aware of that?

12 A. I'm not aware of that.

13 Q. But we'll try to say Advisory Commission
14 or Commission. And if you don't understand
15 which commission or committee I'm talking
16 about, then feel free to ask because I want to
17 make sure we're clear.

18 A. Understood.

19 Q. So there are a few things to unpack from
20 that.

21 First, who was the director of the AOC at
22 that time who told you to attend as many
23 Advisory Commission meetings as you could?

24 A. Let me clarify.

25 Q. Okay.

1 A. She didn't it tell me to attend as many
2 Advisory commission meetings as I could, but as
3 many meetings of commissions and meetings that
4 were meeting in our office space. The Advisory
5 Commission was one of those. Her name was
6 Deborah Taylor Tate. There is no hyphen, that
7 is her middle name and last name.

8 Q. And is Ms. Deborah Taylor Tate, is she
9 still employed by the Tennessee AOC?

10 A. She is on a 120-day contract currently.
11 She is retired, but essentially working on a
12 part-time contract to assist with a specific
13 project.

14 Q. So you had just joined the Tennessee AOC
15 office and the director at that time wanted you
16 to attend as many meetings that were being held
17 at the AOC office; is that right?

18 A. Yes.

19 Q. Did you have -- we'll get into the
20 specifics of those different commissions.

21 Did you have a particular role in terms
22 of what you were required to do when you
23 attended certain meetings?

24 A. No.

25 Q. How many different commissions were

1 having meetings at that time at the Tennessee
2 AOC office?

3 A. I would say we had one to two a month of
4 various commissions and committees.

5 Q. Can you recall -- well, let me ask you
6 first, the Advisory Commission, was it having
7 meetings there at the Tennessee AOC office?

8 A. Yes.

9 Q. And that was in 2016?

10 A. Yes.

11 Q. Do you recall in 2016 how many meetings
12 they would have per year?

13 A. No.

14 Q. Do you know, when you came in that role,
15 had the Advisory Commission been having
16 meetings at the AOC office prior to 2016?

17 A. I do not know.

18 Q. Do you recall if the Advisory Commission
19 meetings in 2016 were open to the public?

20 A. I did not know and do not know.

21 Q. Well, what was the AOC's role -- and I
22 want to make sure -- I think you said hosted.

23 What was the Advisory -- excuse me.

24 What was the AOC's role in hosting

25 Advisory Commission meetings in 2016?

1 A. We gave them a meeting space big enough
2 for their group to get together.

3 Q. So that was in one of the offices or
4 conference rooms?

5 A. We have one large conference room.

6 Q. At that time they were physically meeting
7 in the AOC office in Nashville; is that right?

8 A. For the one meeting that I've ever
9 attended in 2016 and beyond, they all met in
10 the physical space in our conference room.

11 Q. And we're talking about the Advisory
12 Commission?

13 A. Correct.

14 Q. And so you recall at least one meeting
15 that the Advisory Commission had in 2016 that
16 was physically in the AOC office in Nashville,
17 Tennessee?

18 A. Yes.

19 Q. Do you recall when that meeting took
20 place in terms of what month in 2016?

21 A. I do not.

22 Q. And you attended; is that right?

23 A. Yes.

24 Q. Do you recall in 2016, did the Advisory
25 Commission have members of the private bar --

1 attorneys on it at that point?

2 A. I don't remember any. I don't know.

3 Q. But would the -- excuse me.

4 Would the AOC office still have that
5 information?

6 A. I don't know.

7 Q. Did you see anybody that you knew at one
8 of those meetings that was a private attorney
9 in 2016?

10 A. I don't recall anyone specifically.

11 Q. Did the Advisory Commission in 2016 at
12 the meeting you attended, did it have any
13 judges?

14 A. I don't recall that either.

15 Q. How many other commissions or boards,
16 other than the Advisory Commission, did you
17 attend in 2016?

18 A. Can you repeat that?

19 Q. Sure. As I understood your earlier
20 testimony, the director at that time wanted you
21 to attend as many different meetings by various
22 boards and commissions that were being held at
23 the AOC office; is that correct?

24 A. Correct.

25 Q. So my question is, excluding the Advisory

1 Commission right now, during the year of 2016,
2 how many other meetings that were being held at
3 the AOC office did you attend?

4 A. Best guess today in 2023, five.

5 Q. So five other meetings other than the
6 Advisory Commission?

7 A. Correct.

8 Q. Do you recall what those commissions
9 were?

10 A. I recall the Access to Justice Committee,
11 the Alternative Dispute Resolution Committee,
12 the Second Look Commission and I know there
13 were one or two others -- oh, the Board of
14 Professional Responsibility, during only their
15 public session, and the Board of Judicial
16 Conduct, also during their public session. I
17 don't recall any others offhand.

18 Q. What specifically about the Board of
19 Professional Responsibility public session do
20 you recall? Why did you make that distinction?
21 How do you recall it being public?

22 A. Because I was asked to leave when the
23 disciplinary matters were going to be taken up
24 by the board.

25 Q. Okay. So when you say "public," you're

1 not just talking about AOC employees, you're
2 talking about the public at large could observe
3 that?

4 A. I don't know. If I could, maybe.

5 Q. Well, you qualified and said other than
6 the public, so I want to understand what you
7 meant by public part of the Board of
8 Professional Responsibility.

9 What made it public or what made it stand
10 out in your mind as being public, as you
11 described it?

12 A. They were not discussing anything
13 confidential under the Rule.

14 Q. Okay. The Advisory Commission in the
15 2016 meeting, were they discussing anything
16 confidential?

17 A. I don't recall the specifics of the
18 meeting.

19 Q. Who chaired the 2016 Advisory Commission
20 meeting that you observed?

21 A. I don't recall.

22 Q. Were any Tennessee Supreme Court justices
23 there?

24 A. I don't recall.

25 Q. Do you recall if the Tennessee AOC office

1 sent out any advanced notices to the public
2 that the Advisory Commission meeting was open
3 to the public?

4 A. For the 2016 meeting that I attended?

5 Q. Yes.

6 A. I do not know.

7 Q. Did you have an assistant general counsel
8 at that time?

9 A. I had two.

10 Q. What were their names?

11 A. David Byrne, B-Y-R-N-E, and Jeana Hendrix
12 H-E-N-D-R-I-X. Her first name was J-E-A-N-A.

13 Q. Do you recall if Mr. Byrne ever sent out
14 a public meeting notice to the public about an
15 Advisory Commission meeting in 2016?

16 A. I do not.

17 Q. Do you recall if Mr. Byrne ever sent out
18 an Advisory Commission meeting at any time
19 during his role as your assistant?

20 A. David was assigned to our indigent
21 services, he would have had no reason to.

22 Q. What about Ms. Hendrix, do you recall
23 Jeana Hendrix ever preparing or sending out a
24 public meeting notice for an Advisory
25 Commission meeting, either in 2016 or any year?

1 A. No. Same reason, she would not have had
2 any reason to.

3 Q. Well, if her name is on a public meeting
4 notice as a point of contact for the Tennessee
5 AOC, would that be accurate that she was the
6 point of contact for the AOC office?

7 MR. STAHL: Object to the form.

8 BY MR. DOUGHERTY:

9 Q. You can answer.

10 A. I need to amend. Also, there was one
11 other assistant general counsel. Let me go
12 back to that. Michelle Consiglio-Young,
13 C-O-N-S-I-G-L-I-O.

14 Q. Right, and we'll talk about her in a
15 moment, but go ahead, I didn't want to
16 interrupt, but I appreciate that.

17 A. And it's hyphenated with Young. So I
18 recall Michelle being a person that was in that
19 Rules Commission meeting in 2016.

20 Now, back to your question about Jeana, I
21 don't recall Jeana ever having a liaison
22 position with the Rules Commission and I'm not
23 sure I understand what your question is.

24 Q. Have you ever seen a public meeting
25 notice in advance of an open public meeting of

1 the Advisory Commission?

2 A. No.

3 Q. You've never seen one?

4 A. No.

5 Q. If there's one on the Tennessee AOC
6 website that there was a public meeting notice
7 sent out, would you think that that actually
8 happened?

9 MR. STAHL: Object to the form.

10 THE WITNESS: I assume it happened,
11 but I did not see it ahead of time.

12 BY MR. DOUGHERTY:

13 Q. And if Jeana Hendrix, if her name was on
14 that, would you assume that she was the point
15 of contact for the public?

16 MR. STAHL: Object to the form.

17 THE WITNESS: My assumption would be
18 that she put the notice out.

19 BY MR. DOUGHERTY:

20 Q. Okay. There would be no reason that
21 you're aware of that her name would be on there
22 if she didn't participate; is that correct?

23 A. Just -- you mean participate in the
24 meeting?

25 Q. I mean participating in notifying the

1 public that a meeting was taking place and that
2 the public was invited to attend.

3 A. I have no reason to think that.

4 Q. Do you ever recall reviewing a public
5 meeting notice that went out to the public in
6 advance of an Advisory Commission meeting?

7 A. No.

8 Q. Describe what you mean by "hosting"?
9 What does that look like? What does that mean
10 when the AOC hosted the Advisory Commission
11 meeting in 2016?

12 A. Provided a gathering place for the
13 attendees to hold their meeting.

14 Q. Is there any other agency within the
15 Tennessee government that you're aware of
16 that's ever hosted an Advisory Commission
17 meeting before?

18 A. Not that I'm aware of.

19 Q. So it would just be the AOC office is the
20 only one -- the only agency that you're aware
21 of that's ever hosted an Advisory Commission
22 meeting; is that right?

23 A. That's right.

24 Q. Do you recall if any of the meetings --
25 where the AOC office hosted meetings, were any

1 of those ever livestreamed or broadcast to the
2 public in any way?

3 A. Not to my knowledge, until the pandemic.

4 Q. Okay, we'll talk about that in a second.

5 So I just want to understand, can you
6 give me the years that David Byrne was the
7 assistant general counsel for the Tennessee
8 AOC?

9 A. I don't know when he started. It was
10 several years before I began. He left in
11 December of 2016.

12 Q. Okay.

13 A. He retired.

14 Q. He retired in December of 2016?

15 A. Uh-huh.

16 Q. And what about Jeana Hendrix, how long
17 was she at the Tennessee AOC office?

18 A. She was also there several years before I
19 arrived, and shortly after I got there, she
20 went to a part-time status.

21 Q. So do you recall when she went from
22 full-time to part-time?

23 A. It was in 2016, I don't recall when.

24 Q. Now, was she a -- she was a full-time
25 assistant general counsel; is that right?

1 A. Correct.

2 Q. When she went part-time, did she assume
3 another role or was she still assistant general
4 counsel?

5 A. She was still assistant general counsel.

6 Q. But just in a part-time role?

7 A. Correct.

8 Q. And then when was Michelle
9 Consiglio-Young, when was she general counsel?

10 A. She was never general counsel. She was
11 assistant general counsel, but she was
12 primarily in the role of legislative liaison.

13 Q. My apologies.

14 What was her time period as her role --
15 in her role as assistant general counsel?

16 A. She started at the AOC roughly a year
17 before I did and she remains there today.

18 Q. So did she also have a dual role? What
19 was her other title?

20 A. She is no longer in the General Counsel's
21 office, she is the division head of our
22 Intergovernmental Affairs Division.

23 Q. But that's still within the AOC office;
24 is that right?

25 A. Correct.

1 Q. You mentioned something, you used the
2 word "liaison."

3 Was Michelle Consiglio-Young, was she
4 assigned as a liaison to the Advisory
5 Commission in 2016?

6 MR. STAHL: Object to the form.

7 THE WITNESS: I don't know.

8 BY MR. DOUGHERTY:

9 Q. Was she at the meeting in 2016 that you
10 observed of the Advisory Commission?

11 A. That is my recollection, yes.

12 Q. What did you observe her doing?

13 A. I recall the two of us just sitting
14 together, I don't recall her doing anything
15 specific.

16 Q. I mean, was there anyone who formally
17 conducted the meeting or took notes?

18 A. The chair. And I don't recall at the
19 time who the chair was. It probably was Lee
20 Ramsey.

21 Q. And who is Lee Ramsey?

22 A. Well, he is retired now, but he was a
23 staff attorney for the Tennessee Supreme Court.

24 Q. What is your understanding of the purpose
25 of the Advisory Commission?

1 A. To advise the Supreme Court on the rules
2 of practice and procedure in state courts in
3 Tennessee.

4 Q. So does that mean they get together and
5 come up with recommendations on changing rules
6 or adding new rules; is that essentially their
7 function?

8 A. I think it's -- because of the advisory
9 capacity to the Court, my memory is discussion
10 about rules that had been proposed to the
11 Commission for consideration and recommendation
12 to the Court. I don't recall any specific new
13 rules that came out of that particular meeting
14 discussion.

15 Q. Yeah, I'm not -- I'm sorry, I'm not
16 talking about that specific meeting in 2016.
17 So let me back up.

18 I'm talking kind of generally right now,
19 your understanding of the Advisory Commission,
20 okay?

21 A. Okay.

22 Q. As I understood it, they make rule
23 recommendations to the Supreme Court; is that
24 correct?

25 A. Yes.

1 Q. And so is it your understanding that
2 anyone can make recommendations to the Advisory
3 Commission to consider rules before they make
4 their recommendations --

5 A. Yes.

6 Q. -- to the Supreme Court? Is that right?

7 A. Yes.

8 Q. How do people not on the Advisory
9 Commission make rule recommendation to them?

10 MR. STAHL: Object to the form.

11 THE WITNESS: I don't know how they
12 come in.

13 BY MR. DOUGHERTY:

14 Q. Okay. Well, have you ever seen any of
15 these recommendations to the Advisory
16 Commission before?

17 A. I recall an e-mail to the Commission
18 being discussed at some point, but I did not
19 receive the e-mail.

20 Q. So this would have been an e-mail --
21 would it have been from a member of the
22 Tennessee Supreme Court or member of the
23 public?

24 MR. STAHL: Object to the form.

25 THE WITNESS: I don't remember who it

1 was from.

2 BY MR. DOUGHERTY:

3 Q. Is it your understanding that the members
4 who serve on the Advisory Commission, that they
5 can come up with their own potential
6 recommendations for the Commission to discuss?

7 A. Yes.

8 Q. Okay. What does that process look like?

9 A. I don't know.

10 Q. Do you recall how long the meeting was in
11 2016 that you observed?

12 A. I do not.

13 Q. Was it more than one hour?

14 A. I don't know.

15 Q. Are you aware that there was a
16 preliminary injunction issued in this case in
17 March of 2023?

18 A. I'm aware there was a preliminary
19 injunction, my memory was May of 2023.

20 Q. But you're aware that the Court in this
21 case, in this lawsuit issued a preliminary
22 injunction; is that right?

23 A. I am.

24 Q. What is your understanding of that
25 preliminary injunction?

1 A. That was a fairly long memorandum order.

2 Can you be more specific?

3 Q. Sure. What -- what's the purpose -- what
4 was the purpose of the injunction until the
5 trial of this case; what's supposed to take
6 place?

7 A. So my understanding is that the Advisory
8 Commission was to publicly notice any meetings
9 it held, and if it were to close a portion in
10 whole or in part of the meeting, that they
11 needed to give notice of that as well.

12 Q. And so the preliminary injunction, you
13 would also agree it required the Advisory
14 Commission to open the meetings to the public;
15 is that right?

16 A. Yes.

17 Q. And what was the role of the AOC office
18 in that process; do you know?

19 A. No.

20 Q. Do you know if the Tennessee AOC office
21 is supposed to provide public notice to the
22 public in advance of an Advisory Commission
23 meeting?

24 A. Under this preliminary injunction, yes.

25 Q. And who did you discuss that with?

1 A. I did not discuss it with anyone.

2 Q. Who made you aware of the preliminary
3 injunction?

4 A. My counsel.

5 Q. Is that Mr. Coke?

6 A. Both, actually.

7 Q. Can you state their names, please?

8 A. Well, actually it would have been John
9 Coke and it would have been a different
10 attorney than Mr. Stahl. At the time, I
11 believe it was Andrew Coulam who's with the
12 AG's office.

13 Q. And I probably should have said this in
14 the introduction. I know when you're nodding
15 your head what you mean, but it's important for
16 the court reporter to get verbal answers, okay?

17 A. I was not aware I was not giving you
18 verbal answers.

19 Q. You were, but you also were nodding. In
20 looking around, I wanted to make sure. That's
21 not necessarily picked up by the court
22 reporter, okay?

23 A. I understand.

24 Q. Once they made you aware of the
25 preliminary injunction, did you have a role --

1 or do you have a role in making sure the public
2 notices go out to the public?

3 A. No.

4 Q. Whose role is that now?

5 A. Within the Tennessee AOC?

6 Q. Yes.

7 A. It would be John Coke and Michelle
8 Consiglio-Young. Our liaison, who is Michelle
9 Consiglio-Young, would have primary
10 responsibility for that.

11 Q. And why would Ms. Consiglio-Young have
12 primary responsibility?

13 A. She is the staff liaison.

14 Q. And when you say "staff liaison," who is
15 she the staff liaison to?

16 A. The Advisory Commission.

17 Q. And what does a staff liaison -- what do
18 they do?

19 A. For this specific situation with the
20 Advisory Commission?

21 Q. Yes.

22 A. Okay. Assist the Commission as needed
23 and respond to their needs for meetings and
24 other clerical support, administrative support.

25 Q. And as far as you know, even prior to the

1 preliminary injunction, the AOC office or
2 someone within the AOC office has always done
3 that for the Advisory Commission, correct?

4 A. I don't know always. As long as I've
5 been there, yes.

6 Q. Which goes back to at least 2016?

7 A. Correct.

8 Q. Tell me again when you started in
9 December of --

10 A. December of 2015.

11 Q. Do you remember the day?

12 A. I can say on or around December 15th.

13 Q. Okay. Is Ms. Consiglio-Young, has she
14 been temporarily out of the AOC office for a
15 while?

16 A. She has.

17 Q. How long has she been out of the office?

18 A. Since mid August of 2023.

19 Q. And what's the reason that she's out of
20 the office temporarily?

21 A. Maternal leave.

22 Q. And do you know when she'll be coming
23 back to the AOC office after her leave?

24 A. I don't know an exact date, but I believe
25 it's going to be in early to mid December 2023.

1 Q. Now, you said that she went out on leave
2 in mid August; is that right?

3 A. Yes.

4 Q. Do you know how many times per year the
5 Advisory Commission meets?

6 A. No.

7 Q. You're not aware that they meet
8 quarterly?

9 A. They met more regularly when I first
10 started at the AOC, and I believe quarterly is
11 an accurate statement.

12 Q. But you don't know and you've never known
13 the time periods or when they meet; is that
14 right?

15 A. I am not looped in on that and haven't
16 been for most of my time at the AOC.

17 Q. Do you recall giving your deposition --
18 excuse me, strike that question.

19 Do you recall submitting a declaration in
20 this case?

21 A. I do.

22 Q. How many declarations did you submit?

23 A. Two.

24 Q. Do you recall in one of your declarations
25 that you stated that the Rules Advisory

1 Commission typically meets quarterly?

2 A. Yes.

3 Q. And -- let me look at that. Hang on one
4 moment.

5 And was that in the second declaration
6 that you gave on July 12, 2022?

7 A. I don't remember which declaration.

8 Q. Okay. But do you remember saying that
9 the Advisory Commission typically meets
10 quarterly?

11 A. Yes.

12 Q. And that was in July of 2022.

13 What's different now where you don't know
14 or you don't remember?

15 MR. STAHL: Object to the form,
16 argumentative.

17 THE WITNESS: They haven't met
18 quarterly this year.

19 BY MR. DOUGHERTY:

20 Q. Right, and I understand that -- so we're
21 kind of talking pre preliminary injunction at
22 this point, okay?

23 A. Uh-huh.

24 Q. In 2016, were you aware of any pattern of
25 meeting, be it monthly or quarterly or

1 something like that; do you recall anything in
2 2016 about that?

3 A. I recall it being a regular quarterly
4 meeting.

5 Q. Okay. So you recall in 2016 the Advisory
6 Commission met quarterly, right?

7 A. That -- that's correct.

8 Q. Do other boards and commissions that the
9 Advisory Commission -- excuse me.

10 Do other boards and commissions that the
11 AOC office assists, do they typically meet
12 quarterly?

13 A. Not necessarily.

14 Q. Do some meet monthly?

15 A. I don't know if any meet monthly.

16 Q. Who makes those decisions?

17 A. It depends.

18 Q. Are you aware of any statute, for
19 example, that requires a certain either monthly
20 or quarterly meeting?

21 A. Of any commission or just the Advisory
22 Commission.

23 Q. Any commission.

24 A. I don't want to assume, so I'm just going
25 to say I don't know for sure. I do know that

1 there is a Supreme Court rule specific to the
2 Access to Justice Committee that I believe
3 requires a certain number of meetings for a
4 defined period of time.

5 Q. You're not aware of any particular rule
6 or statute that requires the Advisory
7 Commission to meet so many times per year, are
8 you?

9 A. No.

10 Q. What is the Access to Justice Committee?

11 A. It is a committee that was established by
12 the Supreme Court to enhance individuals'
13 access to the courts and it takes various
14 forms. It's a very loaded question. It can be
15 self-represented litigants, it can mean forms
16 that assist individuals attempting to get
17 divorced. It is a committee that exists to
18 ensure that everyone who needs access to a
19 Tennessee court can get it.

20 Q. Why is it a loaded question?

21 A. Because they do so much, I don't know how
22 to tell you all the things they do.

23 Q. Who came up with the name Access to
24 Justice?

25 A. That would have been the Court when they

1 established it, the justices would have.

2 Q. When you say the Court, are you referring
3 to the Tennessee Supreme Court?

4 A. The Tennessee Supreme Court.

5 Q. Do you know if there's a federal statute
6 called the Access to Justice Statute?

7 A. I don't.

8 Q. Do you know if there was a movement in
9 the mid 1990s on access to justice?

10 MR. STAHL: Object to the form.

11 THE WITNESS: No, sir, in the mid
12 1990s I was in high school, I was definitely
13 not paying attention to that.

14 BY MR. DOUGHERTY:

15 Q. But in terms of using that phrase, access
16 to justice, is that unique to the Tennessee
17 Supreme Court?

18 A. I don't think so.

19 Q. Do the federal equivalent, do they use
20 the term access to justice?

21 A. I don't know.

22 Q. Does access to justice also mean that the
23 public should be able to observe what goes on
24 in courts?

25 MR. STAHL: Object to the form.

1 THE WITNESS: I've never understood
2 that to be a part of the mission of that
3 committee.

4 BY MR. DOUGHERTY:

5 Q. Has providing open and transparent
6 government ever been a part of the Access to
7 Justice mission?

8 A. I have never understood that to be a part
9 of their mission.

10 Q. Do they have a mission statement?

11 A. I don't know.

12 Q. Well, how do you know if it's not a part
13 of their mission?

14 A. Tennessee Supreme Court Rule 50
15 establishes the committee and their
16 responsibilities.

17 Q. So the Tennessee Rule -- say that again?

18 A. Tennessee Supreme Court Rule 50.

19 Q. So if I go to Tennessee Supreme Court
20 Rule 50, it's going to tell me what the Access
21 to Justice mission is?

22 A. It's going to tell you the
23 responsibilities of the committee, why the rule
24 exists. I'm using the term "mission," not sure
25 that mission is included in the rule.

1 Q. Do you recall in the Tennessee AOC
2 website if there is a section for boards and
3 commissions?

4 A. Yes.

5 Q. And would it be fair to say that there
6 are approximately 15 to 20 different boards and
7 commissions on that website that the AOC office
8 assists?

9 A. Yes. Let me clarify that.

10 Q. Uh-huh.

11 A. There are some on there that the AOC does
12 not necessarily assist, but they are included
13 in that list because they fall under the
14 purview of the Tennessee Supreme Court.

15 Q. What boards or commissions on the AOC
16 website that are listed does the AOC not
17 assist?

18 A. When you say "assist," what do you mean?

19 Q. Well, I think you used the word "assist,"
20 I'm just trying to understand what the AOC
21 office does with respect to the various boards
22 and commissions that are listed on the website.

23 So, for example, the Advisory Commission,
24 does the AOC office assist the Advisory
25 Commission?

A. Insofar as they provide a meeting space, whether that be Webinar, streaming or a physical space to meet, yes, and a staff liaison.

Q. Well, let's talk about Webinar support.

Does the Advisory Commission, do they
always meet together in one room?

MR. STAHL: Object to the form.

THE WITNESS: I don't know.

BY MR. DOUGHERTY:

Q. Well, the meeting that you observed in 2016, were all the members physically in person in Nashville, Tennessee at the AOC office?

A. I don't know that all of the members were, but those that were present were in the room.

Q. Were there any members that were participating in the meeting in 2016 that participated by livestreaming or Webinar or computer of some sort?

A. No, not to my knowledge.

Q. So what you recall, everybody from the Advisory Commission meeting in 2016 were physically in the AOC office room; is that right?

1 A. That's right.

2 Q. What do you mean by Webinar? How do
3 people participate in Webinar -- I'm talking
4 about various commissions right now, not just
5 the Advisory Commission.

6 A. Webinar is just a way for the commission
7 or committee or whatever the case may be to
8 present their meeting virtually.

9 Q. So is it ever the case where -- again,
10 this is not exclusively to the Advisory
11 Commission, any board or commission, do they
12 sometimes meet where some are in their office
13 all over the state by computer?

14 A. Yes.

15 Q. Have you ever seen, not just the Advisory
16 Commission, any of those meetings take place
17 where members who are participating by
18 computer, Webinar, et cetera?

19 A. I have.

20 Q. Which -- which ones -- which meetings
21 were those that you recall?

22 A. I don't know.

23 Q. Do you personally serve as a liaison to
24 any board or commission?

25 A. Just the Judicial Ethics Committee.

1 Q. Is that the same as the Tennessee Board
2 of Professional Responsibility?

3 A. No, the Tennessee Board of Professional
4 Responsibility has regulatory and disciplinary
5 authority over lawyers, the Board of Judicial
6 Conduct has disciplinary and regulatory
7 authority over judges, and the Judicial Ethics
8 Committee is an internal committee comprised of
9 judges of several levels of state judiciary to
10 provide ethical support and opinions to judges
11 who are needing it.

12 Q. How long have you served as the AOC
13 liaison to the Judicial Ethics Committee?

14 A. Approximately six years.

15 Q. And can you tell me those -- that time
16 frame, please?

17 A. It would have been in 2017 or 2018 when I
18 took it over to current.

19 Q. Are there any other AOC employees who
20 work with you in your capacity as a liaison to
21 the Judicial Ethics Committee?

22 A. No.

23 Q. What exactly is your role and duty as a
24 liaison to the Judicial Ethics Committee?

25 A. Often times I'm a conduit for judges who

1 reach out with ethical questions to connect
2 them with a member of the Judicial Ethics
3 Committee who can assist them with their
4 question. And when requested by the Committee,
5 I will support them administratively by
6 providing a meeting space, if they need a
7 physical meeting space, or getting them
8 assistance for a virtual meeting.

9 Q. Would it be fair to say that AOC
10 employees serving as liaison -- liaisons to
11 committees or commissions, that they provide
12 administrative support?

13 A. Yes.

14 Q. What does that administrative support
15 look like in general?

16 A. Very similar to what I just explained
17 with the Judicial Ethics Committee or with
18 Michelle Consiglio-Young and the Advisory
19 Commission. We are oftentimes a conduit to
20 ensure that they have what they need for their
21 meeting to go forward or a conduit to connect
22 individuals who may need their advice or
23 services.

24 Q. So let's say the Advisory Commission
25 wanted to have a meeting where all the members

1 were together in one room, okay? Would the AOC
2 office be the conduit to provide that support
3 to the Advisory Commission?

4 A. Yes.

5 Q. And how -- and the AOC office would
6 actually provide the physical space for the
7 meeting?

8 A. Yes.

9 Q. Let's say the Advisory Commission wanted
10 to meet by Webinar, livestreaming, would the
11 AOC office provide the administrative support
12 to help them have that meeting that way?

13 A. Yes.

14 Q. And let's say the Advisory Commission
15 wanted to have a meeting that was open to the
16 public, would the AOC office assist them in
17 making that happen?

18 A. Yes.

19 Q. Okay. There are different types of court
20 rules that you're aware of that the Advisory
21 Commission considers when it's making
22 recommendations?

23 A. Yes, but my experience and interaction
24 with that Commission is relatively limited.

25 The ultimate goal is to present to the

1 Tennessee Supreme Court a package of
2 recommended changes or additions or deletions
3 to really any court rule that the Tennessee
4 Supreme Court has purview over.

5 Q. So you don't really know the breakdown of
6 the various types of rules and procedures that
7 they consider; is that right?

8 A. Because I'm not directly connected with
9 them, no, I don't feel comfortable saying that.

10 Q. Would you -- is it fair to say that
11 Michelle Consiglio-Young is the AOC employee
12 who has the most knowledge of what takes place
13 at Advisory Commission meetings?

14 A. That would be my expectation, yes.

15 Q. Did you ever talk to Michelle
16 Consiglio-Young about the preliminary
17 injunction and how that might impact the AOC
18 office?

19 A. No, I don't think so.

20 Q. Ever talk to Michelle Long the director
21 about how the preliminary injunction might
22 impact the AOC office?

23 A. I recall one discussion that it affected
24 the need for public notice.

25 Q. And when was that discussion that you had

1 with Michelle Long?

2 A. I don't know exactly the date, but it
3 would have been shortly after the preliminary
4 injunction was filed.

5 Q. And what was discussed?

6 A. Just that it would impact the need to
7 have a public notice.

8 Q. And did either you or Michelle Long
9 consider if the AOC had ever provided public
10 notice in the past for Advisory Commission
11 meetings?

12 MR. STAHL: Object to the form.

13 THE WITNESS: We did not discuss
14 that.

15 BY MR. DOUGHERTY:

16 Q. Did you look to see if the AOC office had
17 ever issued any public notices in the past for
18 Advisory Commission meetings?

19 A. I did not.

20 Q. Did you also have a discussion with any
21 of the Tennessee Supreme Court justices after
22 the preliminary injunction?

23 MR. STAHL: Object to the form.

24 THE WITNESS: Yes.

25 ///

1 BY MR. DOUGHERTY:

2 Q. And tell me about those discussions and
3 who were they with?

4 MR. COKE: I'm going to object, ask
5 her not to answer that question.

6 MR. DOUGHERTY: Why is that?

7 MR. COKE: Just the discussions with
8 the Court is -- the Court is the ultimate
9 attorney -- the ultimate client for Rachel and
10 our office on these discussions, so I believe
11 those are privilege and protected.

12 MR. DOUGHERTY: You're claiming
13 privilege because of what? What's the
14 relationship?

15 MR. COKE: The legal -- Rachel Harmon
16 and others in our office providing the legal
17 advice to the Court on matters, and we believe
18 that constitutes attorney-client privilege.

19 BY MR. DOUGHERTY:

20 Q. Ms. Harmon, did you provide legal advice
21 to any of the justices on the Tennessee Supreme
22 Court?

23 A. About what?

24 Q. After the preliminary injunction was
25 issued.

1 A. Yes.

2 Q. Who did you provide legal advice to?

3 A. Holly Kirby.

4 Q. Was Justice Kirby a chief justice at that
5 point?

6 A. No.

7 Q. Did Justice Kirby become chief justice on
8 September 1 of 2023?

9 A. Yes.

10 Q. Is providing legal advice in the job
11 description for the deputy director of the AOC?

12 A. It can be.

13 Q. Is providing legal advice to the
14 Tennessee Supreme Court in the deputy director
15 job description?

16 A. Yes, it can be.

17 Q. Is there a formal job description for the
18 deputy director of the AOC?

19 A. There is.

20 Q. Where could I find that? Is that on the
21 Tennessee AOC website?

22 A. It is within our HR Department.

23 Q. Is there a particular statute that
24 governs the deputy director's responsibility
25 and obligations?

1 A. No.

2 Q. Do you know if there's a statute that
3 governs the director of the AOC's obligation --

4 A. Yes.

5 Q. I'll just ask it -- you're very clear on
6 your answers, but just let me finish the
7 question first.

8 So it's your understanding that there is
9 a state statute that governs the duties and
10 responsibilities of the director of the AOC,
11 correct?

12 A. Yes.

13 Q. Did you provide legal advice to director
14 Michelle Long?

15 A. Yes.

16 Q. When?

17 A. In May, when the preliminary injunction
18 was issued, which I believe was May.

19 Q. I believe it was March, but --

20 A. Whichever month --

21 Q. The actual date is not as important as --
22 we agree it came down in the spring of 2023,
23 correct, the preliminary injunction?

24 A. Whichever month it came down, that's --
25 that would have been the month I would have had

1 a discussion with her.

2 Q. So it would have been the month that
3 Judge Richardson issued it, that's when you
4 would have had these discussions?

5 A. Yes.

6 Q. Is that when you would have had the
7 discussion with Justice Holly Kirby, whenever
8 the injunction was issued?

9 A. Yes.

10 Q. That month?

11 A. Yes.

12 Q. Okay. Did you have a discussion with I
13 think he was the chief justice at the time,
14 Chief Justice Paige?

15 A. Yes.

16 Q. And was that a separate discussion that
17 you had with Justice Kirby?

18 A. Yes.

19 Q. Okay. What do you recall about that
20 discussion?

21 A. Simply notifying him about the
22 preliminary injunction.

23 Q. Did you also discuss that with the other
24 members of the Supreme Court at that time?

25 MR. STAHL: Object to the form.

1 THE WITNESS: No.

2 BY MR. DOUGHERTY:

3 Q. So other than Justice Paige and Justice
4 Kirby, have you had communications with any
5 other justices since the preliminary injunction
6 was issued?

7 A. About the preliminary injunction?

8 Q. Yes.

9 A. No.

10 Q. So it's your testimony that you've only
11 discussed the preliminary injunction with
12 Justice Kirby and Justice Paige?

13 A. On the Supreme Court, that's correct.

14 Q. Okay. I want to -- I appreciate you, I
15 want to be clear.

16 Since the preliminary injunction was
17 issued in 2023, you've had discussions about
18 the injunction with Michelle Long; is that
19 right?

20 A. Yes.

21 Q. You've had further discussions about the
22 preliminary injunction with Justice Kirby; is
23 that right?

24 A. Yes.

25 Q. And you've had further discussions about

1 the preliminary injunction with Justice Paige;
2 is that right?

3 A. Yes.

4 Q. Any other members on the Tennessee
5 Supreme Court, either past or current, have you
6 had discussions about the preliminary
7 injunction with?

8 A. No.

9 Q. Have you discussed the preliminary
10 injunction with other members of the AOC office
11 other than Michelle Long?

12 A. John Coke and Michelle Consiglio-Young.

13 Q. And she went on maternity leave, I
14 believe you said in May -- excuse me, in August
15 of 2023; is that right?

16 A. Yes.

17 Q. Have you had any discussions about the
18 preliminary injunction with Michelle
19 Consiglio-Young while she's on leave?

20 A. No.

21 Q. So your discussions with Michelle
22 Consiglio-Young about the preliminary
23 injunction occurred before she went on
24 maternity leave; is that right?

25 A. Yes.

1 Q. Do you know how many meetings of the
2 Advisory Commission have been held since the
3 preliminary injunction in 2023?

4 A. I don't think any.

5 Q. Was there one held in June of 2023?

6 A. I don't know.

7 Q. So you're not aware that there was a
8 public meeting held in June of 2023 and it was
9 livestreamed to the public; you're not aware of
10 that?

11 MR. STAHL: Object to the form, asked
12 and answered.

13 THE WITNESS: I don't deal directly
14 with the Rules Commission, so I don't -- I
15 don't know that.

16 BY MR. DOUGHERTY:

17 Q. Well, in your discussions with Michelle
18 Long, I think you testified that you discussed
19 post preliminary injunction that meeting
20 notices needed to go to the public; is that
21 right?

22 A. That's correct.

23 Q. Do you know if a meeting notice ever went
24 to the public post preliminary injunction about
25 any Advisory Commission meetings?

1 A. I don't know that.

2 Q. Would it have been your role to assign
3 someone in the AOC office to put out the public
4 meeting notices?

5 A. No.

6 Q. Would it have been Michelle Long's role
7 to assign someone to put out the meeting
8 notices?

9 A. Yes.

10 Q. It would be Michelle Long's
11 responsibility to do that?

12 A. To assign someone, yes, the person
13 assigned is Michelle Consiglio-Young.

14 Q. Right, but I just want to understand kind
15 of the hierarchy.

16 That's not something you as deputy
17 director would have actually assigned Michelle
18 Consiglio-Young?

19 A. No.

20 Q. That would have been Michelle Long
21 assigning Michelle Consiglio-Young?

22 A. Yes.

23 Q. Do you know if -- how many meetings the
24 Advisory Commission had in 2022?

25 A. No.

1 Q. Do you know if those meetings were open
2 to the public?

3 A. I do not know.

4 Q. In your discussions with Michelle Long
5 post preliminary injunction, did the issue come
6 up that prior meetings of the Advisory
7 Commission had been closed?

8 MR. STAHL: Object to the form.

9 THE WITNESS: I'm sorry, can you --
10 I'm not sure I understand that question.

11 BY MR. DOUGHERTY:

12 Q. Sure. Post preliminary injunction you
13 testified that you had a discussion with
14 Michelle Long; is that right?

15 A. Yes.

16 Q. During that discussion, you discussed
17 that the AOC office would have to put out
18 public meeting notices; is that correct?

19 A. Yes.

20 Q. Was there any discussion about past
21 meetings being closed and why notices weren't
22 sent out in the past?

23 A. No.

24 Q. Why did that become an issue post
25 preliminary injunction, putting out public

1 meeting notices?

2 A. I'm not sure I understand the question.

3 Q. Well, part of the preliminary injunction
4 required the AOC office to put out public
5 meeting notices. Why did that require you to
6 have a discussion with Michelle Long?

7 A. My conversation with her was really
8 limited to insuring she understood that that
9 was just going to have to happen. I don't
10 recall there being any discussion about whether
11 it had or had not been happening.

12 Q. Had you ever had any prior discussions
13 with Michelle Long about the Advisory
14 Commission? And when I say "prior," I'm
15 talking about pre preliminary injunction?

16 A. Yes, we would have discussed it when the
17 lawsuit was initially filed in this matter.

18 Q. Do you recall what you discussed when the
19 lawsuit was filed in this matter with Michelle
20 Long?

21 A. I found the lawsuit extremely confusing
22 because it initially sought public attendance
23 at judicial education conferences and that is a
24 space where I spend a great deal of time and
25 supervise our judicial education team.

1 After --

2 Q. Go ahead.

3 A. When the lawsuit was filed and I reviewed
4 the pleadings, I remember commenting, this
5 isn't what they think it is, in terms of the
6 judicial education inferences, this sounds like
7 they are more interested in the Advisory
8 Commission.

9 Q. And so when you saw the first amended
10 complaint a couple weeks later, you understood
11 it better at that point, is what you're saying?

12 A. I believe my declaration was filed in the
13 interim explaining what the judicial education
14 conferences were, and then yes, I recall seeing
15 a first amended complaint that better
16 categorized that.

17 Q. And we'll talk a little bit later about
18 that particular statute. And I appreciate you
19 sharing the judicial conference right now, I
20 kind of want to focus on the Advisory
21 Commission, okay?

22 A. My understanding from your question was
23 what did I discuss with Michelle Long and
24 that's what we discussed.

25 Q. Okay. And it's your understanding that

1 the preliminary injunction only refers to the
2 Advisory Commission meetings?

3 A. Correct.

4 Q. I mean, we can go as long as you want,
5 we've been doing it about an hour and
6 15 minutes, if you want to take a break, fine,
7 if you don't --

8 A. I'm fine.

9 Q. Okay. Are you aware of a similar federal
10 committee that is structured like the Tennessee
11 Advisory Commission?

12 A. I am not.

13 Q. Have you since become aware of it since
14 this lawsuit was filed?

15 A. Yes.

16 Q. Were you aware prior to the lawsuit being
17 filed that there is a similar federal committee
18 like the Tennessee Advisory Commission?

19 A. I'm aware that there is a committee, I am
20 not aware of how similar they are.

21 Q. You're not aware that they also make rule
22 recommendations to the United States Supreme
23 Court?

24 A. In that regard, they may be similar.

25 Q. Have you ever seen any of their open

1 meetings broadcast or either in person?

2 A. No.

3 Q. Did you watch the Tennessee Advisory
4 Commission meeting that was livestreamed in
5 June of 2023?

6 A. No.

7 Q. Does the AOC office -- strike that.

8 Are you aware of YouTube channels that
9 have court information regarding Tennessee
10 courts?

11 A. Yes.

12 Q. Tell me your understanding of those
13 YouTube channels.

14 A. There are two. There's a primary one and
15 a secondary one. And our Communications
16 Department livestreams oral arguments on the
17 appellate level and also sometimes assists
18 other courts, like our three judge panel in
19 streaming court hearings and proceedings. That
20 is the primary --

21 Q. When you say a "three judge panel," are
22 you referring to the constitutional three judge
23 panel? What do you mean by the three judge
24 panel?

25 A. Yes, it's a relatively new statute that

1 was passed by the General Assembly and creates
2 a three judge panel on the trial level to hear
3 certainly constitutional challenges.

4 Q. I think we were involved in a case right
5 after it was created, so I'm aware of that.

6 What -- okay. I want to kind of unpack
7 some of that.

8 You said something about a communications
9 team. I just want to understand the YouTube
10 channels, is that under the AOC website -- the
11 AOC auspices?

12 A. Yes.

13 Q. And so are there certain team members
14 like communication team members that are under
15 the AOC?

16 A. Yes.

17 Q. Who are those team members that assist
18 with the YouTube channels?

19 A. Primarily it is Nick Morgan and Barbara
20 Peck.

21 Q. Are you aware of any livestreaming of
22 meetings of boards or commissions?

23 A. I am.

24 Q. And can you tell me those particular
25 meetings that you're aware of that have been

1 livestreamed in the past?

2 A. Access to Justice and Alternative Dispute
3 Resolution.

4 Q. Is that the ADR Commission; also known as
5 ADR Commission?

6 A. Correct.

7 Q. Do they meet -- does the Access to
8 Justice, is it a commission, is it called a
9 commission?

10 A. Yes.

11 Q. Does it meet quarterly or monthly or do
12 you know?

13 A. I believe Access to Justice is required
14 to meet a certain number of times based on Rule
15 50, Tennessee Supreme Court Rule 50. I have
16 not read that rule in a while, but that is my
17 recollection.

18 Q. Are members of the judiciary, do they
19 serve on the Access to Justice Committee?

20 A. We would have to look at the page to see
21 who is on it, but I believe there's a good
22 mixture of judiciary, lawyers and lay people.

23 Q. And when you say "look at the page,"
24 you're referring to the AOC website?

25 A. Correct.

1 Q. What about the ADR Commission, is it made
2 up of members of the judiciary?

3 A. I believe there are members similar to
4 the ATJ; judiciary, attorney and lay people.

5 Q. So would it be fair to say that that's --
6 have you heard the term before "bench bar,"
7 have you ever heard that term before?

8 A. I ever heard that term before.

9 Q. What is your understanding of bench bar?

10 A. My main experience with bench bar is with
11 the relationship with the Tennessee Bar
12 Association. You're not from here, so I'll
13 just give you this: Lawyers who are licensed
14 in Tennessee are not required to be part of the
15 bar. So that is a -- more of a social
16 organization, it is not actually a requirement.
17 The Tennessee Bar Association and the Tennessee
18 Judiciary Partner have created a Bench Bar
19 Committee, but other than that, I'm not aware
20 of a state level Bench Bar Committee.

21 Q. Do you have any duties in your role as
22 deputy director in preparing the budget for the
23 AOC?

24 A. No.

25 Q. Do you make any recommendations to the

1 director, either Michelle Long or prior
2 directors on budgetary matters?

3 A. I don't make budget recommendations. I
4 might and do make programatic recommendations
5 that might result in a budgetary ask.

6 Q. And tell me about those programatic
7 recommendations.

8 A. A really good example right now is our
9 indigent services. I have been very involved
10 since I began the AOC in indigent
11 representation. I staffed and helped maneuver,
12 for lack of a better term, the indigent
13 representation task force in 2016 and 2017 and
14 since then have been working on increasing
15 compensation rates for indigent attorneys and
16 trying to modernize that space.

17 Q. And has there been any change in what
18 you're trying to accomplish; has there been any
19 recent changes in those compensation levels?

20 A. There have been incremental changes, but
21 we are -- we are poised to make a large ask for
22 the next legislative session that would be a
23 budget request to raise the compensation rates.

24 Q. Are you having those discussions with
25 Justice Kirby about that?

1 A. I have not had those discussions directly
2 with her yet.

3 Q. Has Justice Kirby released any recent
4 public announcements that it's her goal to kind
5 of, what you just said, increase the
6 compensation level?

7 A. Yes.

8 MR. STAHL: Object to the form.

9 BY MR. DOUGHERTY:

10 Q. Is that an Access to Justice issue?

11 A. It is presented that way many times.

12 Q. So even though the indigent defense might
13 not technically be under Access to Justice, you
14 consider it an Access to Justice issue?

15 A. If you're asking me personally, yes.

16 Q. What does Access to Justice mean to you
17 personally?

18 A. This is going to sound very idyllic, but
19 everyone has a level playing field when they
20 come into court.

21 Q. Kind of skipped forward after we started
22 talking about the YouTube channels. I want to
23 kind of circle back to that, if we could.

24 Nick Morgan, what is his position over
25 the -- or involvement with the YouTube

1 channels?

2 A. He is our digital media lead.

3 Q. Did you have a conversation with Nick
4 Morgan post preliminary injunction about
5 livestreaming an Advisory Commission meeting?

6 A. No.

7 Q. Do you know if Michelle Long or Michelle
8 Consiglio-Young had communication with
9 Mr. Morgan about livestreaming the Advisory
10 Commission meeting?

11 MR. STAHL: Object to the form.

12 THE WITNESS: I do not.

13 BY MR. DOUGHERTY:

14 Q. What about -- you said Barbara Peck?

15 A. Do I know if she had conversations with
16 him about it?

17 Q. Was that her name, Barbara Peck?

18 A. Yes, Barbara Peck.

19 Q. What is her role?

20 A. She supervises Nick Morgan. She's our
21 communications director.

22 Q. Did you or Michelle Long have -- bring in
23 Ms. Peck about -- post preliminary injunction
24 about livestreaming an Advisory Commission
25 meeting?

1 MR. STAHL: Object to the form.

2 THE WITNESS: I did not.

3 BY MR. DOUGHERTY:

4 Q. Well, who would have communicated to
5 Ms. Peck about the need to fulfill the
6 preliminary injunction on livestreaming an
7 Advisory Commission meeting?

8 A. I don't know, but as I've stated,
9 Michelle Consiglio-Young would have been our
10 primary --

11 Q. Well, when you were communicating with
12 Michelle Long, what did you all talk about post
13 preliminary injunction with respect to
14 publicizing the meeting?

15 A. As I've stated, I simply made sure she
16 understood that that meeting was going to have
17 to be publicly noticed.

18 Q. So were you giving her legal advice at
19 that point?

20 A. I'm not sure I understand the question.

21 Q. Well, I just want to understand. I mean,
22 you're the deputy director; is that right?

23 A. That's correct.

24 Q. Does Michelle Long supervise you?

25 A. Yes.

1 Q. Okay. So post preliminary injunction you
2 wanted to make sure that your superior knew
3 what needed to happen; is that right?

4 A. Yes.

5 Q. Why did you feel the need to make that
6 known to her?

7 A. It's the responsible thing do in my
8 position.

9 Q. Did you feel that she wouldn't understand
10 the preliminary injunction and what it meant?

11 MR. STAHL: Object to the form.

12 THE WITNESS: Not at all.

13 BY MR. DOUGHERTY:

14 Q. So that's what I'm asking. Were you
15 acting in a legal capacity when you were
16 advising her that the meetings -- future
17 meetings needed to be open to accord with the
18 injunction?

19 A. I would perceive that as legal advice,
20 yes.

21 Q. And was that what you were doing?

22 A. Yes.

23 Q. Do you recall her response to you
24 notifying her that future meetings needed to be
25 open?

1 MR. STAHL: Object to the form.

2 THE WITNESS: I don't recall her
3 exact response.

4 BY MR. DOUGHERTY:

5 Q. Was there any discussion about bringing
6 in the communications group, the team, to
7 assist with notifying the public?

8 A. No.

9 Q. Have you ever attended -- I'm not talking
10 about the Advisory Commission at this point,
11 any meetings that have been livestreamed?

12 A. You said you're not talking about the
13 Advisory Commission?

14 Q. Right, any board or commission meetings
15 that have been livestreamed, have you ever
16 attended or observed any of those type
17 meetings?

18 A. I know I have, I don't know which ones or
19 when.

20 Q. Okay. But I think it's your
21 understanding, or at least I just want to make
22 sure I understand it, as far as you recall, the
23 Access to Justice meetings are livestreamed to
24 the public; is that right?

25 A. If they are not held in a physical

1 location only, I believe they are livestreamed,
2 yes.

3 Q. And the Alternative Dispute Resolution
4 Commission, their meetings are livestreamed to
5 the public; is that right?

6 A. If they're not held in a physical
7 location only, I believe that's correct.

8 Q. And if they are held in a physical
9 location, would that be at the AOC office?

10 A. Yes.

11 Q. Do you know if Advisory Commission
12 members receive reimbursement for their
13 participation in the Advisory Commission?

14 A. I believe they are -- like most of those
15 who volunteer and serve on Supreme Court boards
16 or commissions, they are not necessarily paid
17 for their time, but they do receive mileage and
18 maybe a meal per diem, with the exception
19 perhaps of the Board of Law Examiners, I
20 believe that is technically a part-time
21 position for graders of the exam.

22 Q. So it's your testimony that the Advisory
23 Commission members receive mileage
24 reimbursement?

25 A. I think that's right.

1 Q. Is that a policy or do you know if that's
2 a statute?

3 A. I think it's in the statute.

4 Q. And so do you -- is it your understanding
5 that the Advisory Commission members receive a
6 per diem meal reimbursement?

7 A. I am basing that off of the fact that
8 generally, when there is mileage provided under
9 state finance administration rules, that meal
10 per diem can be, if certain criteria are met
11 for timing and things of that nature.

12 Q. Have you ever observed any of these
13 requests for reimbursement from Advisory
14 Commission meetings?

15 A. No.

16 Q. Do members submit reimbursement to the
17 AOC office?

18 A. I don't know.

19 Q. Is it your understanding that the
20 director, Michelle Long, her role or whoever
21 fulfills that role, is supposed to kind of
22 coordinate the reimbursement to the members?

23 A. Our fiscal services would do that.

24 Q. When you say "our fiscal," you're
25 referring to the AOC office Fiscal Division?

1 A. Correct.

2 Q. Just to simplify, the AOC somewhere
3 reimburses Advisory Commission members when
4 there's an appropriate time to reimburse them;
5 is that right?

6 A. Yes, if they submit a reimbursement
7 request.

8 Q. Assuming they fill their obligation and
9 submit the reimbursement, right, is what you're
10 saying?

11 A. Yes.

12 Q. Okay. When did the livestreaming and the
13 YouTube channels -- do you recall when that
14 started?

15 A. I think we have had a YouTube channel for
16 several years. I don't know when it started.
17 I think it really became a necessity during the
18 2020 COVID-19 pandemic. And our meetings up
19 until that point, generally, for commissions
20 and really anything else we did was in person.
21 Very little livestreaming. Maybe a phone
22 conversation -- you know, someone put on a
23 Polycom in the middle of the table on the
24 phone, if they could not attend for some reason
25 physically. It was really when the pandemic

1 hit that we had to pivot to virtual.

2 Q. And so the Tennessee AOC office has had
3 livestreaming pre COVID; is that right?

4 A. Some.

5 Q. But it's your testimony that that really
6 didn't kind of, I guess for lack of a better
7 word, get into full swing until the pandemic?

8 A. The Tennessee Supreme Court started
9 livestreaming before the pandemic, that was an
10 effort to modernize and allow for more public
11 access to the courts. The trickle down effect
12 was, in my opinion, much greater and faster
13 because of the pandemic. So the Court of
14 Appeals, Court of Criminal Appeals were
15 livestreamed on the YouTube channel.

16 Q. You're saying the Tennessee Supreme Court
17 and the Court of Appeals or arguments were
18 livestreamed to the public pre pandemic?

19 A. No, Tennessee Supreme Court was.

20 Q. Okay.

21 A. The other courts came on quickly as
22 access to the courts was problematic. And it
23 wasn't just for public, it was so that the
24 judges could also participate as a panel.

25 Q. Who made the decision once the pandemic

1 hit to increase the use of livestreaming?

2 A. It was primarily the courts themselves.
3 So Tennessee Supreme Court was already doing
4 it, that did not change. The presiding judge
5 of the Court of Appeals and a presiding judge
6 of the Court of Criminal Appeals of the two
7 intermediate appellate courts would advise us
8 they were ready to move to a virtual platform.
9 How they came to that discussion or decision is
10 within their 12 members.

11 Q. When you say they would have advised us,
12 you're referring to the AOC office?

13 A. Yes.

14 Q. Does the AOC and the Tennessee Supreme
15 Court share the same website?

16 A. Yes.

17 Q. Is there any other website that exists
18 outside of the AOC website that would service
19 or assist any other courts in the state of
20 Tennessee?

21 A. There is an offshoot website for Access
22 to Justice. I don't know if it is necessarily
23 a support for the courts, but it is a resource
24 tool for litigants, attorneys.

25 Q. What do you mean by "offshoot"?

1 A. It's not -- it's not a Tennessee Supreme
2 Court, Tennessee courts website, it is more of
3 a resourcing website. So it is not intended to
4 be a platform where we necessarily share court
5 opinions and put news out or articles out or
6 livestream events, it is more of a resource
7 tool.

8 Q. And do you know the web address for that
9 Access to Justice website?

10 A. Not off the top of my head.

11 Q. Is there a link to it on the Tennessee
12 AOC website?

13 A. I believe you can get through it through
14 the Access to Justice page.

15 Q. Okay. Who administers that Access to
16 Justice website?

17 A. I don't know who actually makes the key
18 strokes happen. I know that Anne-Louise
19 Wirthlin, who is our Access to Justice
20 director, she and her team manage that page
21 content.

22 Q. What is her name again?

23 A. Anne-Louise. It's A-N-N-E, hyphen,
24 L-O-U-I-S-E. Is that right? And Wirthlin,
25 W-I-R-T-H-L-I-N. Wirthlin, yes.

1 Q. Is Ms. Wirthlin an AOC employee?

2 A. She is.

3 Q. So when you say the Access to Justice
4 website is an offshoot, I understand how you
5 described it, does the AOC -- someone within
6 the AOC office administers that website?

7 A. Yes. I think there's a vendor that helps
8 support that, but the content is relegated by
9 those within the AOC.

10 Q. Okay. I think you made a comment or part
11 of your testimony that the Advisory Commission
12 was not having quarterly meetings this year in
13 2023; is that your testimony?

14 A. I think so. I'm not directly involved
15 with them. I know that there was a meeting
16 scheduled that did not happen this fall, so I
17 don't think that one has happened in the third
18 quarter.

19 Q. Let's talk about that meeting that did
20 not happen.

21 What is your understanding of the
22 Advisory Commission third quarter meeting that
23 did not happen?

24 A. It did not happen. What do you mean what
25 is my understanding?

1 Q. Well, you've -- why did it not happen?

2 A. I don't think it was properly noticed.

3 Q. And what leads you to that conclusion?

4 A. I don't remember now how it came up, but
5 someone brought to my attention that there was
6 an Advisory Commission meeting. I went to the
7 website to look, did not see a notice and --
8 I'm trying to remember the steps after that.

9 And I just remember telling -- I think it was
10 then Justice -- Chief Justice Kirby that it
11 couldn't go forward.

12 Q. And that was because of your
13 understanding of the preliminary injunction
14 that it couldn't go forward for that reason?

15 A. Correct.

16 Q. Because as you understand the preliminary
17 injunction, the AOC office is required to give
18 notice to the public; is that right?

19 A. That's right.

20 Q. And so once you communicated this to
21 Justice Kirby, do you recall what happened
22 after that?

23 A. Yes. A fair amount of confusion, largely
24 because our primary liaison was on leave.

25 Q. Is that -- I don't mean to interrupt, is

1 that Ms. Michelle Consiglio-Young?

2 A. Yes, yes. And I was confirming that my
3 suspicion was in fact correct. When I learned
4 that it was, I just told the Chief Justice
5 Kirby it couldn't go forward or we could be in
6 violation of a preliminary injunction.

7 Q. And what do you recall Justice Kirby
8 saying?

9 MR. STAHL: Object to the form. Do
10 you consider that legal advice?

11 THE WITNESS: No, I don't. She
12 understood and I indicated that we would not
13 hold the meeting. Well, I shouldn't say we,
14 the Advisory Commission would not meet.

15 BY MR. DOUGHERTY:

16 Q. Does Justice Kirby set the dates for
17 Advisory Commission meetings?

18 A. No.

19 MR. STAHL: Object to the form.

20 BY MR. DOUGHERTY:

21 Q. Who sets the dates for Advisory
22 Commission meetings?

23 A. I don't know.

24 Q. Who did you communicate to that the
25 meeting cannot go forward?

1 A. John Coke, Chief Justice Kirby and then I
2 communicated -- no, that's it.

3 Q. Do you know if anyone communicated with
4 any of the members on the Advisory Commission
5 meeting that the meeting cannot go forward?

6 MR. STAHL: Object to the form.

7 THE WITNESS: I -- I was not directly
8 part of those conversations. My understanding
9 is that the new liaison -- justice liaison
10 Dwight Tarwater, who came on the court
11 September 1st, was advised that it could not go
12 forward, as was the chair Gino Bulso, as was
13 the reporter. And I'm blanking, I think her
14 name is Kathy.

15 BY MR. DOUGHERTY:

16 Q. When you say "reporter," you're talking
17 about Advisory Commission reporter?

18 A. Reporter, uh-huh.

19 Q. Would that individual be listed on the
20 website for the members?

21 A. I don't know -- yes. I don't know if
22 she's considered a member or just a reporter.
23 There's a distinction with that particular
24 Commission I've never fully understood, but I
25 believe she's listed separately somehow.

1 Q. Would that person have been Lynn
2 Ridgeway?

3 A. That's it. I have no idea where I got
4 Kathy.

5 Q. Do you see a list of meetings for the
6 upcoming calendar year for the Advisory
7 Commission?

8 A. Do I see one?

9 Q. Uh-huh.

10 A. No.

11 Q. Do you see a list of meeting dates for
12 any of the boards or commissions that the AOC
13 office supports?

14 A. No.

15 Q. Do you know when those dates are chosen
16 for any of the commission or board meetings?

17 A. Not unless I need to be a part of the
18 meeting, which is almost never.

19 Q. Are you aware that the Advisory
20 Commission typically tries to hold a meeting, I
21 believe it's the second Friday per quarter?

22 A. As I've indicated in my declaration, my
23 understanding was they had a quarterly cadence,
24 I did not know anything about a second Friday.

25 Q. So you're not aware of -- as far as you

1 know it's just quarterly, you don't have any
2 specifics other than quarterly; is that right?

3 A. Correct.

4 Q. Do you know of any other boards or
5 commissions that have certain specific cadence,
6 as you used the term, regular types of
7 meetings?

8 A. As I've stated, I think the Access to
9 Justice is listed in Rule 50, but I'm not aware
10 of a specific cadence outside of that.

11 Q. How does that -- I'm just trying to
12 understand internally with the AOC office, is
13 -- whoever the liaison from the AOC to a
14 particular commission or board, is it that
15 individual's responsibility to assist that
16 particular commission or board?

17 A. Yes.

18 Q. So this is not something that you as
19 deputy director kind of oversee; is that right?

20 A. Correct.

21 Q. Who assigns the individuals as liaisons
22 to the various boards and commissions?

23 A. Many of them have already been assigned
24 and have been at the AOC for long enough and
25 work well with the groups, so the assignments

1 have sort of already been made. The AOC
2 director ultimately can determine if that's the
3 right fit for some, but there are some
4 positions that are dedicated to serving a
5 commission, Access to Justice, for example,
6 ADR, for example. The Advisory Commission is
7 not one of those that is specifically denoted
8 as a position, we have an individual who works
9 in a job that also has the added duty of being
10 the liaison.

11 Q. But it's your recollection and testimony
12 that Michelle Consiglio-Young has served as the
13 liaison for the Advisory Commission for several
14 years?

15 A. Yes.

16 Q. Is Michelle Long a liaison on any
17 particular boards or commissions?

18 A. I don't know if she would be defined as a
19 liaison, but she is working very closely with
20 our Technology Oversight Committee.

21 Q. Is the Technology Oversight Committee the
22 same as the communications team?

23 A. No.

24 Q. So Barbara Peck -- who is the
25 communications director; is that right?

1 A. Correct.

2 Q. She oversees what AOC team?

3 A. Communications and Judicial Services, I
4 believe is the formal name.

5 Q. Now, can you repeat the -- this other
6 division that you just referenced?

7 A. Communications and Judicial Services.

8 Q. No, the other one. I think you said --

9 A. Oh, the committee?

10 Q. Well, I'm just trying to understand, does
11 Barbara Peck and her team at the Communications
12 and Judicial Service Division, does she oversee
13 all of the livestreaming that takes place
14 within the AOC office?

15 A. She would ultimately be responsible for
16 the livestreaming.

17 Q. Is there a separate communications
18 department or telecommunications department
19 that oversees any livestreaming of meetings or
20 commissions?

21 A. No.

22 Q. Okay. I thought you just said something
23 about telecommunications, I may have
24 misunderstood that.

25 A. About telecommunications?

1 Q. Yeah, or something to that effect. But
2 if Ms. Peck is the only individual, then -- as
3 I understand it; is that your testimony?

4 A. Nick Morgan is the lead on the media
5 space. He reports to Barbara Peck. She is
6 ultimately responsible as the division
7 director.

8 Q. Okay. Is her position an appointed
9 position?

10 A. No.

11 Q. What positions within the AOC office are
12 actually appointed type positions?

13 A. The AOC administrative director is
14 appointed and serves at the pleasure of the
15 Supreme Court.

16 Q. And who appoints that position?

17 A. The Supreme Court.

18 Q. Does the AOC director serve at the
19 pleasure of the Supreme Court or the pleasure
20 of the chief justice?

21 A. The Supreme Court.

22 Q. That's what the statute says?

23 A. They serve under the supervision of the
24 chief justice, but at the pleasure of the
25 Supreme Court.

1 Q. Okay. Are you required, other than your
2 CLE requirements, to go to any training with
3 any other AOC offices in other states or even
4 the federal AOC?

5 A. I am not required.

6 Q. Do you ever do that?

7 A. I have not yet as deputy director.

8 Q. Does the Tennessee AOC office ever look
9 to other state offices, state AOC offices or
10 federal AOC office to get ideas or -- on
11 anything of how you all run your department?

12 A. Yes.

13 Q. Can you tell me about that?

14 A. My experience has, again, been back into
15 the indigent world, I've had a lot of really
16 good conversations with Kentucky in particular.

17 Q. Can you tell me about those conversations
18 with your Kentucky AOC counterpart?

19 A. Yes. My dream is to have a unified court
20 system like Kentucky so that we can take
21 advantage of many of the tools and the indigent
22 resources that they have available to them that
23 we do not as a non-unified court system. That
24 was the general discussion.

25 Q. And who did you have this discussion with

1 in the Kentucky AOC?

2 A. It has been three or four years ago, I do
3 not know.

4 Q. Do they call their equivalent the AOC
5 office?

6 A. Yes.

7 Q. Would that have been a director or deputy
8 director; do you recall the position?

9 A. I recall it being a lawyer, I don't
10 recall the title.

11 Q. Was this at a conference or you said a
12 telephone call?

13 A. Telephone call.

14 Q. What does the unified court system mean?
15 What does that mean?

16 A. We have political subdivisions in
17 Tennessee that clearly denote levels of our
18 court system from the bottom up; municipal, our
19 city courts, our county courts then, our
20 general sessions and juvenile judges and then
21 our state courts which are our trial level and
22 then our intermediate and supreme court level.

23 They are not all budgeted under the state
24 budget appropriation. The AOC in fact has
25 different levels of support for each of those

1 groups because of resources available to the
2 AOC. So we have relationships with and give
3 support to all of the judges and the court
4 clerks, but the majority of our judiciary are
5 city and county officials, not state, and we
6 are a state agency.

7 Q. Okay. So are there courts out there or
8 commissions or boards that the AOC does not
9 support?

10 A. I don't know that I would say we don't
11 support at all.

12 Q. Let me rephrase that, provide
13 administrative support to?

14 A. Once you get beyond the state trial and
15 appellate level judges, we do not provide any
16 HR function, we do not provide any budgetary
17 function. We mostly provide judicial education
18 opportunities by statute and funds appropriated
19 by the General Assembly, but beyond that, it's
20 very limited.

21 Q. But the AOC office provides
22 administrative support to circuit and chancery
23 court judges?

24 A. And criminal court judges.

25 Q. Is that a yes?

1 A. Yes.

2 Q. And does the AOC provide administrative
3 support to criminal and civil appellate state
4 judges?

5 A. Yes.

6 Q. And does the AOC provide administrative
7 support to the Tennessee Supreme Court?

8 A. Yes.

9 Q. So does the AOC provide administrative
10 support to the general sessions courts?

11 A. Less support, but yes.

12 Q. What does that mean "less support;" what
13 do you mean?

14 A. As I stated, we don't provide any HR
15 personnel support, we don't provide any
16 budgetary support and we don't have any real
17 connection beyond judicial education and the
18 inherent constitutional authority of the
19 Supreme Court, which is not the AOC's.

20 Q. All right. What do you mean -- explain
21 what you mean by that, the Tennessee Supreme
22 Court is not the AOC?

23 A. The Tennessee Supreme Court is our only
24 constitutional court in Tennessee, they have
25 inherent supervisory authority over the

1 judiciary. The General Assembly has the
2 ability to establish inferior courts and has
3 done so on the state, county and municipal
4 level, but not all of them are funded the same,
5 receive the same level of support from the AOC.

6 Q. And the Tennessee Supreme Court has
7 supervisory role over the AOC office; is that
8 right?

9 A. That's right.

10 Q. Do you know why Tennessee doesn't have a
11 unified court system like Kentucky?

12 A. I don't know why. I have suspicions.

13 Q. What are those suspicions?

14 A. Political.

15 Q. What does that mean?

16 A. I think there are just a lot of
17 political -- political people in local
18 government that would like the courts to stay
19 local.

20 Q. Any of those people serve on the Advisory
21 Commission?

22 A. I don't know.

23 Q. So when you say it's your desire, would
24 it be more efficient in your opinion?

25 A. Yes.

1 Q. In terms of the AOC office being able to
2 provide administrative support to a unified
3 court system?

4 A. If properly resourced, yes.

5 Q. I just want to make sure this is not like
6 a personal aspiration of yours, could be both,
7 but I just want to understand that.

8 A. It's an ongoing discussion
9 professionally. Yes, it is a personal
10 aspiration because I have seen how well things
11 can work, but --

12 Q. Have -- go ahead, I'm sorry.

13 A. Conversations with other states that are
14 unified just show a different way of doing
15 things I think would be beneficial.

16 Q. And other than Kentucky, have you had any
17 other discussions with any other AOC
18 counterparts in other states or is that it?

19 A. I have. I have in Arkansas, and I don't
20 remember the topic, they reached out to me. I
21 don't remember who I spoke with either.

22 Florida, and same, I don't remember who it was.

23 Q. Do you recall a discussion that you had
24 with the person in Arkansas what the topic was
25 about?

1 A. I don't.

2 Q. And then what about your discussion with
3 the AOC person in Florida?

4 A. I don't.

5 Q. Is there a certain -- like a conference
6 of AOC directors or deputy directors that ever
7 come together, the federal or the state,
8 anything like that, an organization?

9 A. There is for the administrative
10 directors, it has not included the deputy
11 director.

12 Q. What is that organization or association
13 called?

14 A. The National Center for State Courts.

15 Q. And do you know if they have -- what type
16 of support do they provide the Tennessee AOC
17 office?

18 A. I don't know.

19 Q. That's not something that in your role as
20 deputy you get involved in?

21 A. It's not.

22 Q. Is that something that Michelle Long gets
23 involved in?

24 A. Yes.

25 Q. Is there a conference like once a year

1 that you're aware of the National Center for
2 State Courts?

3 A. I think there's one annually. There may
4 be others I'm not aware of.

5 Q. Does the federal AOC have any conferences
6 for the state AOC counterparts that you're
7 aware of?

8 A. I don't know.

9 Q. Do other states structure their AOC
10 office like Tennessee's in terms of having the
11 director serve at the pleasure of the Supreme
12 Court?

13 A. I don't know.

14 Q. Do you know how the federal AOC is
15 structured vis-a-vis its relationship between
16 the director and the chief justice of the US
17 Supreme Court?

18 A. This might be incorrect. My
19 understanding was that the federal AOC served
20 all courts but the US Supreme Court, but I
21 don't know the level of interaction that the
22 chief justice would have.

23 Q. To simplify that, does that mean -- is it
24 your understanding -- I realize you said you
25 might not be qualified, but is it your

1 understanding that the federal AOC director
2 does not serve at the pleasure of the US
3 Supreme Court justice?

4 A. I don't know.

5 Q. Okay. I think you testified that you
6 have never observed a federal equivalent of a
7 committee meeting like the Tennessee Advisory
8 Commission meeting; is that right?

9 A. I have not.

10 Q. Before -- were you aware -- were you made
11 aware that their meetings were open to the
12 public because of this lawsuit?

13 A. Was I made aware that what was --

14 Q. Were you aware that the federal
15 equivalent to the Tennessee Advisory
16 Commission, that their meetings were open to
17 the public; have you ever been aware of that?

18 A. I was made aware as a result of this
19 lawsuit.

20 Q. So that was the first time when you read
21 the pleadings in this lawsuit?

22 A. Yes.

23 Q. That you were aware that the Feds were
24 open to the public?

25 A. Yes.

1 MR. STAHL: Hey, Buck, we've been at
2 it for a couple of hours.

3 MR. DOUGHERTY: I'm fine, that's why
4 I wanted to bring it up. It's been a couple
5 hours.

6 MR. STAHL: We can stretch our legs.
7 Let's take ten minutes. I know you're on a
8 point, I don't want to break you off from your
9 train of thought.

10 MR. DOUGHERTY: I'm fine taking a
11 break.

12 (Short break.)

13 BY MR. DOUGHERTY:

14 Q. So we're back on the record, Ms. Harmon.
15 We're going to finish talking a little bit more
16 about the Advisory Commission, then we'll move
17 onto the other Tennessee Judicial Conference
18 Group, okay?

19 A. Okay.

20 Q. I want to go back to your declarations
21 that you filed in this lawsuit.

22 Who helped -- or who prepared those
23 declarations?

24 A. Then Deputy Attorney General Janet
25 Kleinfelter.

1 Q. And did you have any communication with
2 Ms. Long at that point when you were completing
3 and filling out your declaration?

4 A. I don't remember.

5 Q. Why did you give a declaration since
6 you're not a party and Michelle Long is the
7 director?

8 A. Because I am the supervisor over our
9 judicial education team.

10 Q. Okay. And with respect to the -- the
11 second complaint, your second declaration
12 regarding the first amended complaint, why did
13 you give a declaration in that -- at that point
14 as well?

15 A. I don't remember how it happened, but
16 Janet asked me if I was able to give some
17 supplemental information and I told her I could
18 give her what I have. And that's what resulted
19 in that supplemental declaration.

20 Q. So just to clarify, the Advisory
21 Commission is not under your supervision?

22 A. Correct.

23 Q. Why didn't Michelle Consiglio-Young give
24 a declaration with respect to the allegations
25 about the Advisory Commission?

1 MR. STAHL: Object to the form.

2 THE WITNESS: I don't know.

3 BY MR. DOUGHERTY:

4 Q. And why did Michelle Long not give a
5 declaration, since she was named?

6 MR. STAHL: Object to the form.

7 THE WITNESS: I don't know.

8 BY MR. DOUGHERTY:

9 Q. Were Advisory Commission meetings in 2022
10 open to the public?

11 A. I don't know.

12 Q. How are you able to advise Justice Kirby
13 if you don't know if Advisory Commission
14 meetings were open or closed?

15 A. My advice to Justice Kirby didn't relate
16 to whether the meetings were open or closed.

17 Q. I thought you testified that you had a
18 communication with Justice Kirby after the
19 preliminary injunction was issued; is that
20 right?

21 A. Yes.

22 Q. Well, as part of the preliminary
23 injunction, the Court made a determination that
24 meetings needed to be open; is that right?

25 A. Yes.

1 Q. If the Court made that determination that
2 meetings needed to be open, would it -- the
3 logical conclusion be that the Advisory
4 Commission meetings were closed before that?

5 A. That's a logical conclusion.

6 Q. Was that your understanding?

7 A. You're asking me if I knew. I was not
8 directly participating in those meetings, I do
9 not know. I make the logical conclusion that
10 they were not open.

11 Q. Did Justice Kirby also confirm that
12 meetings had been closed prior to the
13 injunction?

14 MR. STAHL: Object to the form. Do
15 you consider that legal advice, the
16 conversation you had with her regarding this?

17 THE WITNESS: Yes.

18 MR. STAHL: We're going to instruct
19 her not to answer.

20 BY MR. DOUGHERTY:

21 Q. Who closed meetings of the Advisory
22 Commission?

23 A. I don't know.

24 Q. Would Michelle Long know?

25 A. I don't know.

1 Q. Would Justice Kirby know?

2 A. I don't know.

3 Q. Would Gino Bulso know?

4 A. I don't know.

5 Q. Is there anybody at the AOC office that
6 would know whether or not Advisory Commission
7 meetings were open or closed?

8 A. I don't know.

9 Q. How does the AOC office provide
10 administrative support to the Advisory
11 Commission when it doesn't know if its meetings
12 are open or closed?

13 A. I don't think I speak for the entire AOC.

14 Q. Well, you just said that you don't know
15 if anyone at the AOC office would know if
16 Advisory Commission meetings are open or
17 closed; is that right?

18 A. I don't know what others know. The
19 primary assistance for the Advisory Commission
20 with the AOC is Michelle Consiglio-Young, I
21 don't know what she knew or when.

22 Q. Would Michelle Consiglio-Young be the
23 person at the AOC office who would know if
24 meetings in 2022 were open or closed?

25 A. I think so.

1 Q. Would the justice of the Supreme Court
2 know if meetings in 2022 or open or closed?

3 A. I don't know if all of them were or any
4 specific would.

5 Q. Would some of them know?

6 A. I don't know.

7 Q. Would they know if meetings were open or
8 closed if we asked --

9 MR. STAHL: Object to the form.

10 THE WITNESS: Who is "they"?

11 BY MR. DOUGHERTY:

12 Q. The Tennessee Supreme Court justices?

13 A. I can't speak for them.

14 Q. Do you know if the AOC had to make any
15 financial adjustments post preliminary
16 injunction to livestream the Advisory
17 Commission meetings?

18 A. There would not have been any.

19 Q. So when the preliminary injunction was
20 issued in 2023 in the spring, in order for the
21 AOC office to carry out what the judge said in
22 the injunction, did the AOC office already have
23 the resources to livestream the Advisory
24 Commission meetings?

25 A. Yes.

1 Q. Do you know what budget item that might
2 be in the AOC portion of the budget?

3 A. No.

4 Q. Have you ever seen -- let me strike that.
5 Did you see the budget that was an
6 exhibit to the complaint and the pleadings in
7 this case?

8 A. I recall seeing it. I have not seen it
9 recently.

10 Q. And as I recall, that budget was a budget
11 that the governor submits to the General
12 Assembly; is that your understanding of how
13 that works?

14 A. Yes, there are budget requests made this
15 time of year. The governor then decides how
16 much or what is going to get funded for his
17 budget proposal.

18 Q. And within that broad budget that the
19 governor has that he or she submits to the
20 General Assembly, is there a portion that
21 covers the AOC and the Tennessee court system?

22 A. Yes.

23 Q. Within that portion, is there certain
24 money that's allocated for the YouTube channels
25 and the livestreaming or do you know?

1 A. It is not that granular.

2 Q. And I think you testified earlier you
3 don't -- you don't get really involved in the
4 budget, but you do have some information on it,
5 I guess?

6 A. I have a working knowledge.

7 Q. Okay. Would Michelle Long know about the
8 more granular aspects, to the extent there are
9 some, in the AOC portion of the budget?

10 A. She will know more than I will.

11 Q. Okay. Is there anyone else within the
12 AOC office other than you or Michelle Long that
13 would have more information about the budgetary
14 process and what the AOC submits to the
15 governor?

16 A. Michelle Consiglio-Young and Dalton
17 Hensley.

18 Q. Who is Dalton Hensley?

19 A. Dalton Hensley is our fiscal director.

20 Q. And who does he report to?

21 A. Michelle Long.

22 Q. And his title is fiscal director?

23 A. Yes.

24 Q. And -- so Michelle Consiglio-Young,
25 you're saying she would have information in

1 terms of any budgetary matters involving the
2 Advisory Commission or in general?

3 A. I'm speaking more generally. Because she
4 is our legislative Intergovernmental Affairs
5 Division director, she is intricately involved
6 in anything that's headed to the General
7 Assembly, which would include the governor's
8 budget.

9 Q. And it would also include the rules
10 package of the Advisory Commission, right?

11 A. Yes.

12 Q. Let's talk a little bit about that
13 process of the rules package.

14 Is it your understanding that at some
15 point there is a public notice and comment
16 period before the rules package gets submitted
17 to the General Assembly?

18 A. Yes.

19 Q. Do you know how that happens?

20 A. Proposed rules are available on the AOC
21 website. They actually run through Jim Hivner,
22 who is the public court clerk. The Court puts
23 out an order that the public court clerk is
24 directed to put the rules out for comment. And
25 there's a defined period of time that they are

1 out for public comment. And at the close, the
2 Court considers the comments and it moves
3 forward as the rules package from there that
4 gets presented to the General Assembly.

5 Q. So in a simplified manner, Advisory
6 Commission meets quarterly, typically; is that
7 right?

8 A. That is my understanding.

9 Q. And they develop recommendations for
10 rules; is that right?

11 A. Correct.

12 Q. And then at some point those
13 recommendations are transmitted to the
14 Tennessee Supreme Court justices; is that
15 right?

16 A. Correct.

17 Q. And then there's a -- do the justices put
18 out -- justices make an order, you said, and
19 then public notice and comment period happens;
20 is that right?

21 A. Correct.

22 Q. And then once the public notice and
23 comment period closes, does the Supreme Court
24 then submit the rules package to the General
25 Assembly?

1 A. Yes, but Michelle Consiglio-Young can
2 tell you more detail how that works.

3 Q. So the public notice and comment period
4 occurs after meetings; is that your
5 understanding?

6 A. I don't know that that always requires
7 them meeting.

8 Q. What I mean by meetings -- when I refer
9 to meetings, I'm talking about the regular
10 meetings of the Advisory Commission, whether
11 they're quarterly or however meeting they have.

12 They make recommendations,
13 recommendations get transmitted to the Supreme
14 Court, right?

15 A. Uh-huh.

16 Q. And then the Supreme Court orders that
17 certain rule recommendations be submitted to
18 the public for notice and comment period,
19 correct?

20 A. Correct.

21 Q. And when the Supreme Court issues its
22 order.

23 Does the AOC post that order in the
24 public notice and comment period on its
25 website?

1 A. Yes. It's not -- well, let me tell where
2 you it is because I'm not sure if we're
3 speaking the same language.

4 There is a section on the AOC website
5 that is specifically for court rules and
6 specifically for proposed and then archived
7 rules. I know the Supreme Court rules are all
8 available there. I think that all the other
9 rules are also available there, but I have not
10 looked for those in quite some time. So
11 they're publicly available, but I don't know
12 what you mean by public comment section.

13 Q. Well, I thought we talked about the
14 comment -- is there a public comment period?

15 A. Yes.

16 Q. Okay, that's what I'm talking about, the
17 public comment period.

18 A. Okay.

19 Q. And the public comment period, as I
20 understand it, happens after meetings take
21 place and they make their recommendations; is
22 that your understanding?

23 A. That is my understanding.

24 Q. Okay. Let's talk a little bit about -- I
25 think you referenced it a little bit earlier

1 when we talked about the Tennessee judicial
2 conferencing, your role and responsibility,
3 okay?

4 A. Uh-huh.

5 Q. The first complaint that was filed in mid
6 June, you I think referenced earlier -- and I
7 don't want to put words in your mouth, but you
8 referred to that as the judicial conference,
9 the education meetings; is that how you
10 understand that portion of the first lawsuit?

11 A. Judicial education conferences is how I
12 would term that.

13 Q. And tell me about -- is there a
14 particular statute on that, the judicial
15 conference meetings?

16 A. There are. We serve -- as I mentioned,
17 we work with several groups. Statutorily, the
18 Tennessee Judicial Conference refers to the
19 trial and appellate level state judges, their
20 membership and their conferences. The
21 Tennessee General Sessions Judges Conference
22 refers to county judges with general sessions
23 jurisdiction, their membership, their
24 conferences. The Tennessee Council of
25 Family -- TCJFCJ [sic], Tennessee Council of

1 Family and Juvenile Court Judges is also
2 statutory, their membership, their conferences.
3 And the municipal judges are under a fairly new
4 Municipal Judges Act, same statutory authority.
5 And there is also a statutory authority for
6 Judicial Education Conferences hosted by the
7 AOC for the county court clerks. That is all
8 the statutory authority I can recall at the
9 moment.

10 Q. Okay. And just for simplicity while
11 we're communicating during your deposition,
12 we've just completed talking about the Advisory
13 Commission; is that right?

14 A. Yes.

15 Q. And the Advisory Commission had meetings
16 and there's an enabling statute for that
17 Commission, correct?

18 A. Yes.

19 Q. Now we're kind of segueing into talking
20 about a different type of meetings and there's
21 a different statute; would you agree with that,
22 that it governs judicial conference meetings?

23 A. Yes.

24 Q. Okay. Would that be 17-3-101, that
25 sequence?

1 A. It is either in Title 16 or 17, I don't
2 recall offhand.

3 Q. For simplicity purposes for this, when
4 I'm talking about meetings of the Advisory
5 Commission meetings, we'll say that, if that's
6 okay with you.

7 A. (Nodding head.)

8 Q. And then when we're talking about
9 Tennessee Judicial Conference meetings,
10 different statute, we'll refer to it that way.
11 Would you -- is that simple to understand for
12 today's purposes?

13 A. Can we call the Judicial Education
14 Conferences, TJC?

15 Q. Okay. For Tennessee Judicial Conference?

16 A. Correct.

17 Q. That's fine with me. So we'll say
18 Advisory Commission meetings and TJC meetings.

19 A. Great.

20 Q. All right. What specifically do you in
21 your role as deputy director, what do you do
22 with the TJC group and meetings?

23 A. I work directly with our judicial
24 education team which plans and organizes their
25 judicial education conferences for the TJC. My

1 relationship is largely related to that. I
2 also attend various committee meetings, if
3 requested, to give a report on anything
4 occurring within the AOC that may affect a
5 particular group at TJC. The most likely to
6 are the Executive Committee and the Presiding
7 Judges Committee.

8 Q. Okay. So tell me a little bit about the
9 Executive Committee of the TJC, who makes up
10 that particular group?

11 A. It is established by statute, its
12 membership is listed in the statute and it is a
13 fairly large group of judges. It includes all
14 levels of the state judiciary, it also has to
15 include judges from each grand division and
16 then there are certain office holders that are
17 necessarily on the Executive Committee.

18 Q. Are there any members of any of the TJC
19 groups that are made up other than judges?
20 Stated another way, are only judges part of the
21 TJC meeting groups?

22 A. Yes.

23 Q. So are there any private attorneys from
24 the bar that are members of the TJC committees?

25 A. No.

1 Q. Okay. In 17-3-107 it says that the duty
2 of the conference is to give consideration, and
3 I'm paraphrasing, enactment of laws and rules
4 and procedure.

5 Is it your understanding that the TJC
6 meeting groups develop rules of procedure?

7 MR. STAHL: Hey, Buck, I just want to
8 mention, the deponent doesn't have the statute
9 in front of her. If we can get that next time
10 we're referencing documents, it would be more
11 helpful just to make sure we're all --

12 MR. DOUGHERTY: I'll strike that
13 question.

14 BY MR. DOUGHERTY:

15 Q. Is it your understanding that the TJC
16 committees, do they ever formulate rules of
17 procedure?

18 A. Related to court rules of procedure or
19 rules of procedure for the TJC operations?

20 Q. Related to court rules of procedure.

21 A. I have never seen that or heard that.

22 Q. Okay. What types of rules of procedure
23 do they do at these meetings, do they enact or
24 discuss?

25 A. It's all about the conference itself.

1 It's typically related to the business of the
2 conference and that's really it.

3 Q. Well -- and let's just talk kind of big
4 picture.

5 So education of judges, is that part of
6 the TJC group, team?

7 A. Yes, there's an Education Committee.

8 I'm sorry, let me interrupt you, I need
9 to amend what I said earlier. On the Executive
10 Committee of the TJC, the attorney general is
11 invited as counsel to the conference to attend
12 or designee. So that is a lawyer. There's a
13 representative usually invited I think more out
14 of curtesy from the TBA, and there has
15 occasionally been someone from TLAW, which is
16 the Tennessee Lawyers Association for Women.

17 Q. All right, so it's your understanding
18 that the Tennessee attorney general attends the
19 TJC meetings?

20 A. Has not recently, but has in the past.

21 Q. Does the statute authorize that the
22 Tennessee attorney general may participate in
23 the TJC meetings?

24 A. The Tennessee attorney general is the
25 counsel to the Tennessee Judicial Conference.

1 Q. Okay. Well, is the Tennessee attorney
2 general, when he or she does attend meetings,
3 is he or she attending as a member or as an
4 attorney?

5 A. They're not a member of the TJC, which is
6 why I answered your question the first way the
7 way that I did, but I wanted to make sure I was
8 being very clear and transparent that there are
9 others who attend that particular meeting.

10 Those three individuals that I mentioned, when
11 they attend, they usually attend to give a
12 report about what's happening in the Attorney
13 General's Office, what's happening with the TBA
14 or what's happening with TLAW.

15 Q. Let's back up a second. We talked about
16 different individuals.

17 So we've got Tennessee attorney general?

18 A. Uh-huh.

19 Q. Who is the second person?

20 A. The TBA president.

21 Q. And what is -- what's the TBA?

22 A. Tennessee Bar Association.

23 Q. That's a voluntary organization?

24 A. Correct.

25 Q. And that's made up of attorneys?

1 A. Judges, whoever.

2 Q. Okay. Anyone who's a licensed attorney
3 can be a member of the TBA?

4 A. I'm not an expert on their membership,
5 but that is my understanding.

6 Q. So the TBA president is invited to attend
7 meetings at the TJC team meetings?

8 A. No, they're invited to attend the
9 Executive Committee meeting to give a report
10 from the TBA.

11 Q. I see, okay. Well, let's just -- and
12 who's the third individual?

13 A. The president of the Tennessee Lawyers
14 Association for Women.

15 Q. And what is the Tennessee Lawyers
16 Association for Women?

17 A. While it's open to any licensed attorney
18 who would like to be a part of it, it's also a
19 volunteer organization, volunteer meaning it's
20 not required as part of your licensure. It's
21 similar to the TBA, but with a focus on women
22 in the law.

23 Q. So you have to be a woman and you have to
24 be licensed?

25 A. You don't have to be a woman.

1 Q. Oh, you don't? Is it a subcommittee of
2 the TBA or is it a separate organization?

3 A. Separate organization.

4 Q. And is that present -- do they only
5 attend limited meetings like the TBA president
6 or do they attend as many meetings that they
7 want?

8 A. They are invited to attend. Typically
9 there is a representative from the TBA and it
10 is typically their president. I have not seen
11 a representative from the Attorney General's
12 Office or TLAW in a while, and I would say at
13 least a year.

14 Q. Okay. So are you specifically assigned
15 as the AOC liaison to the TJC Committee
16 meetings?

17 A. No.

18 Q. Do you personally attend those TJC
19 meetings?

20 A. I usually personally attend the Executive
21 Committee meeting and the Presiding Judges
22 meeting.

23 Q. There's an Executive Committee and then
24 there's a Presiding Judges Committee?

25 A. Correct.

1 Q. Okay. And so what do you call the big --
2 is the big group just the TJC?

3 A. TJC.

4 Q. How many times a year does the TJC meet?

5 A. Three.

6 Q. Where do they meet?

7 A. It depends.

8 Q. Does the AOC office provide support to
9 allow them to carry out their meetings?

10 A. Yes.

11 Q. In what way?

12 A. We work with the Education Committee to
13 provide the education sessions. We work
14 directly with the invited presenters on the
15 topics that the TJC members request to have
16 education about. We contract, make initial
17 communication with hotel venues, state parks to
18 facilitate a physical location for meeting, and
19 we handle -- help handle their reimbursements
20 for mileage, for travel, per diems for meals,
21 if they have that, and just generally make the
22 conferences happen.

23 Q. And are there any -- I may have asked
24 this before, I just want to understand.

25 We're going to talk about TJC, the big

1 group first, okay; do you understand?

2 A. Yes.

3 Q. Are there any private attorneys that
4 attend those three TJC meetings every year?

5 And when I say "private attorneys," I'm saying
6 non-judges.

7 A. I want to -- I would like to consult with
8 my counsel about this because I'm unclear if
9 there's one committee that is actually a TJC
10 committee.

11 Q. Well, I mean --

12 A. Otherwise I have to say I don't know, but
13 no, I am not aware.

14 Q. We're here to try to understand what you
15 know. So, I mean, if you don't know something,
16 if you don't recall that, then you can testify
17 to that, but I mean obviously your counsel can
18 say whatever they want to you, but I just want
19 to kind of get the framework first, try to
20 understand.

21 The TJC committees meet three times a
22 year; is that right?

23 A. Not necessarily.

24 Q. Okay. Well --

25 A. Not all committees meet every time. The

1 TJC meets three times a year.

2 Q. Right, that's what I'm saying, we're
3 talking about the big TJC right now. TJC meets
4 three times a year?

5 A. TJC meets three times a year.

6 Q. When are those meetings? Do they happen
7 at certain points of the calendar year?

8 A. Generally in March, June and October.

9 Q. Do you personally attend those -- any of
10 those three meetings?

11 A. Usually.

12 Q. Which ones?

13 A. Usually all of them.

14 Q. And are they always at the AOC office or
15 are they off-site somewhere?

16 A. No, we contract with venues, such as
17 hotels and state parks, and they are held in
18 conference areas in those locations.

19 Q. Is that something that you coordinate
20 with vendors in your role as deputy director?

21 A. No, our education manager does that
22 directly.

23 Q. But is that an AOC employee, the
24 education manager?

25 A. Yes.

1 Q. So would it be fair to say that the AOC
2 coordinates with outside vendors for these
3 three meetings of the TJC each year?

4 A. Yes.

5 Q. Okay. What are the three meetings; what
6 do they involve? Do they involve just judicial
7 education or what do they involve?

8 A. Judicial education.

9 Q. For all three meetings?

10 A. All three.

11 Q. Is that -- I'm sorry, go ahead.

12 A. The only one that is different is June,
13 that is considered the annual meeting required
14 by statute for the TJC. It is also when the
15 AOC actually has much less of a role in the
16 planning and the execution of that conference
17 because only about a day on the front end of
18 the conference is AOC-hosted judicial education
19 and then the TBA annual conference occurs
20 typically at the same location or very nearby.
21 And the TBA plans and executes all of that.

22 Q. And this lawsuit was filed in June; is
23 that right?

24 A. I don't remember.

25 Q. So are judges required to earn so many

1 hours of legal education, training per year?

2 A. Yes.

3 Q. How many hours a year?

4 A. 15 total.

5 Q. Is there an AOC employee who's a liaison
6 to the TJC?

7 A. There are a lot of AOC employees that are
8 considered liaisons to the TJC.

9 Q. Is the TJC, is that -- any of that
10 information on the AOC website?

11 A. No, not specifically.

12 Q. Who -- do you select the vendors, outside
13 education people for these meetings or does
14 someone within the AOC office?

15 A. Our education team led by our education
16 manager works with the president or incoming
17 president of the TJC to identify locations
18 where we can contract to host them.

19 Q. Well, let's go ahead and talk about those
20 other subcommittees, because I think that might
21 help.

22 You said something about an Executive
23 Committee?

24 A. Correct.

25 Q. What is the Executive Committee? Are

1 they part of the TJC?

2 A. Yes, they're all TJC members, but for the
3 exceptions I gave you earlier who are invited
4 to give a report.

5 Q. Okay. And all of these people are
6 judges; is that right?

7 A. Yes.

8 Q. Unless someone is invited in to give some
9 type of report, like the TBA president or the
10 Tennessee Lawyer Women's [sic] president?

11 A. Yes, and the AOC director I believe is
12 also a member, although I don't know if it's an
13 ex officio capacity or not.

14 Q. So do they meet at different times, the
15 Executive Committee from the TJC?

16 A. The only other times that they will meet,
17 and they're not necessarily required to, but as
18 habit, is in August annually and in December
19 annually.

20 Q. Okay. When you say "required," is there
21 a particular statute that requires them to meet
22 in August and December?

23 A. No, I'm saying I don't know that there's
24 any particular requirement, but I think out of
25 habit there are those two additional meetings.

1 Q. So we have three TJC meetings per year;
2 is that right?

3 A. Correct.

4 Q. Plus two Executive Committee meetings per
5 year; is that right?

6 A. Yes.

7 Q. Okay. Are the two Executive Committee
8 meetings typically in August and December, are
9 they open to the public?

10 A. No.

11 Q. And what distinguishes the Executive
12 Committee meetings from the three TJC meetings?
13 Stated another way, what do they do differently
14 than the big TJC meetings?

15 A. There are five total Executive Committee
16 meetings every year. They have an Executive
17 Committee meeting at each of the three
18 conferences. In addition, they have the August
19 and December, I see.

20 Q. Okay.

21 A. And --

22 Q. Thank you for clarifying that.

23 A. And they are -- they're the governance
24 for the TJC, but beyond that, I can't say that
25 there's anything particularly special.

1 Q. Are they selected by the larger TJC
2 members? The Executive Committee, I'm
3 referring to.

4 A. Yes.

5 Q. But in terms of the TJC, as long as
6 you're a sitting judge or retired judge, you
7 can be a member of the TJC; is that right?

8 A. Yes.

9 Q. Okay. Are retired judges required to
10 have judicial training?

11 A. Not if they have taken an active status
12 with the Board of Professional Responsibility.

13 Q. Okay, let's segue in, I think there's
14 another -- what I'm referring to as a
15 subcommittee, and is that the Education
16 Committee?

17 A. Yes.

18 Q. Okay. What's the Education Committee?
19 Who makes that up and what does it do?

20 A. It is a committee of probably 15 judges
21 that discusses topics that other colleagues
22 have requested education on and floats ideas
23 for presenters and ultimately asks the AOC to
24 help put together those presenters and those
25 topics for upcoming conferences.

1 Q. And how many times does the Education
2 Committee meet?

3 A. Usually at all three of the conferences.

4 Q. And then -- so they don't have two
5 additional meetings?

6 A. No.

7 Q. Okay. Are members of that Executive --
8 Education Committee, are they appointed or
9 selected in any way?

10 A. They -- most of them volunteer. In fact
11 most of these committees, but for the Executive
12 Committee, I think, are -- they're interested
13 in the committee and they want to participate
14 and volunteer.

15 Q. So you attend the three TJC meetings
16 every year; is that right?

17 A. Most years I attend all three.

18 Q. Do you ever attend any of the Executive
19 Committee meetings?

20 A. Yes.

21 Q. How many per year?

22 A. If I'm at the conference, then I
23 generally attend the Executive Committee
24 meeting.

25 Q. What about the plus two meetings in

1 August and December?

2 A. It depends. I have been to some, but I
3 have also missed some.

4 Q. Did you attend any in 2022 of the -- I'm
5 referring to the Executive Committee?

6 A. I did not attend August. I did attend
7 December.

8 Q. Did you attend the three TJC meetings in
9 2022?

10 A. Yes.

11 Q. And have you attended the TJC meetings
12 thus far in 2023?

13 A. No, I came late to the last conference in
14 October and I missed that one.

15 Q. I'm confused. I may have missed this.

16 The three TJC meetings typically in March
17 June and July; is that what you testified to?

18 A. March, June and October.

19 Q. My apologies. Okay.

20 So you attended the March and June 2023
21 TJC meetings?

22 A. Correct.

23 Q. And you attended all three meetings,
24 March, June and October in 2022?

25 A. Yes.

1 Q. What about the Executive -- excuse me,
2 the Education Committee meetings, did you
3 attend those in 2022?

4 A. I attended the one in March. I have not
5 attended an education meeting since that time.

6 Q. And then what about the one in 20 -- the
7 Education Committee meetings in 2023?

8 A. I have not attended one since March of
9 2022, so no.

10 Q. So does the TJC, do they make court rule
11 recommendations at their three meetings per
12 year?

13 A. Does the TJC Executive Committee?

14 Q. No, does the TJC, the big committee, the
15 big group, do they make rule -- court rule
16 recommendations at their three meetings?

17 A. No.

18 Q. Does the Executive Committee, do they
19 make court practice rule recommendations at
20 their meetings?

21 A. No.

22 Q. What about the Education Committee, do
23 they make court rule recommendations?

24 A. No.

25 Q. So it's the Advisory Commission that

1 makes the court and practice of rules
2 recommendations at their meetings, right?

3 A. Yes.

4 Q. Does the AOC enact certain policies
5 regarding the TJC meetings?

6 A. We have one policy in particular related
7 to attendance at the conferences and who may
8 attend.

9 Q. And what -- when was that policy enacted?

10 A. I believe it was late 2021.

11 Q. And did you have a role in enacting that
12 particular policy?

13 A. I did.

14 Q. Tell me about your role in enacting that
15 policy.

16 A. I drafted it.

17 Q. What is the policy? What's the purpose
18 of that policy in simple terms? I know you
19 don't have it in front of you, what's the
20 purpose of that particular policy?

21 A. To protect the integrity of the
22 conferences and the security of the conferences
23 and to allow them to have a space for education
24 without having others involved in their
25 discussions and debate.

1 Q. When you say "others," are you referring
2 to the public?

3 A. Anyone.

4 Q. Did that particular policy that you
5 drafted result in some past incident?

6 A. Yes.

7 Q. Tell me about that past incident.

8 A. We had a municipal judges conference in
9 November 2021, I believe, wherein some -- I
10 think it was four or five male individuals
11 showed up at the conference and were
12 disruptive. I was not physically in the space
13 when it occurred, but they went into the
14 education session and would not leave when
15 asked to leave. The police had to be called
16 and they had to be removed.

17 Q. Were these individuals reporters?

18 A. They claimed to be.

19 Q. Were they part of the media?

20 A. I actually don't know.

21 Q. Weren't the charges against these people
22 dropped?

23 A. I don't know.

24 Q. Is there video out there in the public
25 domain about what transpired at that November

1 conference?

2 A. I don't know.

3 Q. You've never seen any videos by the
4 reporters who were there that day?

5 A. I have not.

6 Q. Where was that conference held?

7 A. Embassy Suites. I think it was the one
8 in Franklin.

9 Q. Were any judges threatened or hurt in any
10 way during that particular conference?

11 A. I don't know if they were overtly
12 threatened.

13 Q. Were there any judges that were injured
14 at that conference in Franklin?

15 A. Not to my knowledge.

16 Q. Would you know if one had been injured?

17 A. I would certainly hope they would tell
18 us, but I don't know if they would.

19 Q. You're not aware of any judge who had to
20 take some type of leave or -- because of an
21 injury, are you?

22 A. Not to my knowledge.

23 Q. Do you know if there's any civil
24 litigation that resulted from that incident in
25 November in Franklin?

1 A. Yes, there is.

2 Q. Can you tell me about that?

3 A. I don't know the current procedural
4 posture of it. I know that chief -- then Chief
5 Justice Page was partied, as well as our
6 education manager, John Crawford.

7 Q. And where was that lawsuit filed?

8 A. Middle District Federal Court in
9 Tennessee.

10 Q. That's the same court where the current
11 McCaleb v. Long case is filed?

12 A. Yes.

13 Q. Do you know the caption of that case?

14 A. I don't.

15 Q. Were either you or Michelle Long named as
16 parties in that lawsuit?

17 A. No.

18 Q. So you said former Chief Justice Page and
19 John Crawford -- is that the other person?

20 A. Correct.

21 Q. And John Crawford is the AOC education --

22 A. Manager.

23 Q. Manager. Was Michelle Long the AOC
24 director at that point?

25 A. No.

1 Q. Who was the director?

2 A. Deborah Taylor Tate.

3 Q. Did that incident in November cause
4 Ms. Deborah Taylor Tate to retire?

5 A. I don't know.

6 Q. Was she demoted because of that incident
7 in November?

8 A. I don't know.

9 Q. But did she take retirement shortly
10 thereafter?

11 A. She retired in February of 2022.

12 Q. So would that be shortly thereafter
13 November of 2021?

14 A. I guess so.

15 Q. Was she involved in the policy or was
16 that just you drafting it?

17 A. It's a judicial policy, so the chief
18 justice and administrative director signed it.
19 So she was involved.

20 Q. Do you know who signed the policy that
21 you drafted? Would that have been Deborah
22 Taylor Tate or would that have been Michelle
23 Long?

24 A. It would have been Michelle Long.

25 Q. Was that signed on her first day of

1 appointment February 1, 2022?

2 A. It was on or about.

3 Q. Oh is that February 1, 2022, date also
4 the same date as the budget that governor Lee
5 submitted to the General Assembly?

6 A. I don't know.

7 Q. There are any organizations that you are
8 involved in that kind of what he with talked
9 about before with the other states, with the
10 TJC committees that you are a part of that you
11 learn from that would be similar to what you do
12 with respect to the TJC? And I'm talking about
13 other auto organizations and office.

14 A. I'm not sure I follow.

15 Q. Sure I'll rephrase that. So we talked
16 about you had reached out or you had had
17 communications with the Kentucky, Arkansas,
18 Florida AOC offices when we were talking about
19 the Advisory Commission?

20 A. (Nodding head.)

21 Q. So now I'm just asking, is there an
22 equivalent TJC committee or office that you
23 reach out to with respect to your rolls on the
24 TJC committees to other states, do you do
25 anything like that?

1 A. No.

2 Q. Okay. Where do you kind of get your
3 training to help with judges and to facilitate
4 their need with their training and legal
5 education? What do you do; what kind of
6 training do you receive at the AOC office?

7 A. There's no formal training, it's
8 on-the-job.

9 Q. Okay. Who selects the education vendors,
10 is that you as the deputy director or do the
11 judges or the members -- who makes that
12 selection?

13 A. When you say "vendors," I want to make
14 sure I'm clear.

15 Q. Yeah, I think you mentioned -- well, are
16 there outside education consultants who come in
17 that provide this legal education to the
18 judges?

19 A. There are not outside consultants, there
20 may be speakers that we bring in.

21 Q. Okay. Who makes the decision to bring in
22 the speakers, is that an AOC function or is
23 that a judges function?

24 A. It is the Education Committee that
25 ultimately determines that.

1 Q. Okay. Are any of these meetings, either
2 the TJC, Executive Committee or the Education
3 Committee, are any of their meetings ever open
4 to the public?

5 A. No.

6 Q. Have they ever been open to the public?

7 A. No.

8 Q. Have any of those meetings, have they
9 ever made court rules of procedure, to your
10 knowledge?

11 A. No.

12 Q. And to the best of your knowledge, court
13 rules have always been promulgated and
14 recommended through the Advisory Commission; is
15 that right?

16 A. Not promulgated, but recommended.

17 Q. Right, recommended. I understand.

18 Did Michelle Long work at the AOC office
19 prior to her appointment?

20 A. Yes.

21 Q. How long had she been at the AOC office?

22 MR. STAHL: Object to the form.

23 THE WITNESS: She started in
24 October 2019.

25

1 BY MR. DOUGHERTY:

2 Q. Did she start -- what was her position in
3 2019?

4 A. Deputy director.

5 Q. That's the current position that you
6 hold, right?

7 A. Yes.

8 Q. And then in 2022 she was promoted to
9 director?

10 A. Yes.

11 Q. And you were promoted from general
12 counsel to deputy director then; is that right?

13 A. In March of 2022 I was pro --

14 Q. You had that dual role?

15 A. Yes.

16 Q. Okay.

17 MR. DOUGHERTY: I'll pass the witness
18 right now, Mike.

19

20 EXAMINATION

21 QUESTIONS BY MR. STAHL:

22 Q. Ms. Harmon, does the AOC govern in any
23 way the conduct of the Advisory Commission
24 meetings?

25 A. No.

1 Q. The Advisory Commission meetings, are
2 they statutorily required to be held at the AOC
3 offices?

4 A. Are they statutory required to be
5 physically held at the AOC?

6 Q. (Nodding head.)

7 A. No.

8 Q. Is there any policy that requires them to
9 be held at the AOC that you're aware of?

10 A. No.

11 Q. Has a committee chair, either for the
12 Advisory Commission or otherwise, ever asked
13 you personally for permission to hold or not
14 hold a meeting?

15 A. No.

16 Q. Are you aware of any committee chair that
17 has asked permission from any AOC employee to
18 hold or not hold a meeting?

19 A. (Shaking head.)

20 Q. You had mentioned earlier that one of the
21 meetings that was scheduled this year had come
22 to your attention might not have been properly
23 noticed; do you remember mentioning that?

24 A. Yes.

25 Q. And you mentioned speaking with Advisory

1 Commission members about how not publicly
2 noticing the meeting might be in violation of
3 the preliminary injunction; is that right?

4 A. I did not speak directly with Advisory
5 Commission members, I know that others did.

6 Q. Okay. Would you have been able in your
7 authority as deputy director to control whether
8 or not the Advisory Commission actually held
9 its meeting, whether or not it was properly
10 noticed?

11 A. No.

12 Q. You mentioned that there was an Access to
13 Justice Committee; is that right?

14 A. Yes.

15 Q. Can you explain the differences in the
16 mission or purpose of the Access to Justice
17 Commission versus the Advisory Commission?

18 A. Generally?

19 Q. Uh-huh.

20 A. I can. Access to Justice Commission is a
21 very active and public commission intended to
22 be both a resource and an innovator for
23 individuals to access the court in whatever way
24 that looks like for them. And they do that in
25 a variety of ways that I am not qualified to

1 speak on, it's that much.

2 The Commission, although it is a Supreme
3 Court commission, is in an advisory capacity to
4 the Supreme Court. It operates, I would say,
5 more independently and helps the Court with
6 improvements, maybe blind spots where there are
7 places we can help with access to the courts.

8 The Advisory Commission is really that,
9 an Advisory Commission. They are appointed to
10 receive input, discuss input, discuss ideas
11 they may have about the rules of practice and
12 procedure and to ultimately make a
13 recommendation on potential additions,
14 deletions or changes to rules of practice and
15 procedure for the court to determine what's
16 within their purview to promulgate.

17 Q. Is it your opinion after offering that
18 explanation that the missions of those two
19 committees are different?

20 A. I don't know if either has a specific
21 mission statement that I can recite to you
22 here. I see them as different commissions,
23 yes.

24 Q. Are you aware of the members that are
25 made up of the Access to Justice Commission?

1 A. Not -- I mean, I know of some that have
2 served in the past, I don't know all the
3 current members now.

4 Q. Are you aware of the makeup of the
5 Advisory Commission and its members?

6 A. No. Well, with the exception of chair
7 Gino Bulso, I know he is on it.

8 Q. In your opinion, do you believe that the
9 AOC has any authority or control over whether a
10 commission meeting under the AOC can be
11 publicly open or closed?

12 A. No.

13 MR. STAHL: That's all I have.

14

15 FURTHER EXAMINATION

16 QUESTIONS BY MR. DOUGHERTY:

17 Q. Mr. Stahl asked you to give your opinion.
18 Do you plan to serve as an expert in this case
19 on behalf of Michelle Long?

20 A. No.

21 Q. Have you ever made it known to Michelle
22 Long or her attorneys that you intend to serve
23 as an expert witness to give your opinion in
24 this case?

25 A. No.

1 Q. You said you didn't go or you haven't
2 spoken to any Advisory Commission members; is
3 that right?

4 A. That's correct.

5 Q. But you said others did. Do you recall
6 saying that?

7 A. Yes.

8 Q. Who are the others?

9 A. I don't know who spoke to them, I just
10 know that the individuals who were spoken to
11 was the new justice liaison, Dwight Tarwater;
12 the chair, Gino Bulso and the reporter, Lynn,
13 who's name I can't now recall. That's what I
14 testified to earlier as well.

15 Q. So others spoke to Gino Bulso?

16 A. To let him know that the meeting was
17 going to be rescheduled.

18 Q. And that was new Justice Tarwater; is
19 that right?

20 A. No, I don't know who spoke directly to
21 those three individuals, I just know I was told
22 those three individuals had been notified that
23 the meeting would need to be rescheduled.

24 Q. Who told you that they had been notified?

25 A. John Coke.

1 Q. Would it have been someone at the AOC
2 office that would have told Bulso and Tarwater
3 that the meetings needed to be open after the
4 preliminary injunction?

5 A. I don't know.

6 Q. Would it have been someone from a
7 different agency other than the AOC?

8 A. I would not suspect it would be someone
9 from a different agency, but I don't know it
10 would be an AOC employee either.

11 MR. DOUGHERTY: I have nothing
12 further.

13 MR. STAHL: Okay.

14 THE REPORTER: Did you want to order
15 this?

16 MR. DOUGHERTY: Yes.

17 MR. STAHL: Do you want to waive
18 signature, Rachel, or do you want to review the
19 transcript for correctness before it gets sent
20 out?

21 MR. COKE: Probably review.

22 THE WITNESS: Review.

23 MR. STAHL: We won't waive signature
24 then.

25 THE REPORTER: Did you want a copy?

1 MR. STAHL: Yes.

2 FURTHER DEPONENT SAITH NOT

3 (At 12:02 p.m. CST.)

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25 E R R A T A P A G E

1 I, RACHEL HARMON, having read the foregoing
2 deposition, Pages 1 through 144, do hereby certify
3 said testimony is a true and accurate transcript,
with the following changes (if any):

4	PAGE	LINE	SHOULD HAVE BEEN
5	_____	_____	_____
6	_____	_____	_____
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RACHEL HARMON

Notary Public

My Commission Expires: _____

REPORTER'S CERTIFICATE


STATE OF TENNESSEE

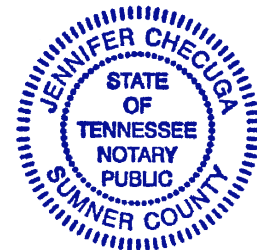
COUNTY OF SUMNER

I, JENNY CHECUGA, Licensed Court Reporter,
with offices in Nashville, Tennessee, and Registered
Professional Reporter, hereby certify that I reported
the foregoing deposition of RACHEL HARMON by machine
shorthand to the best of my skills and abilities, and
thereafter the same was reduced to typewritten form
by me.

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any of the parties named herein, nor their counsel,
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My Notary Commission Expires: 5/18/2027
LCR #690 - Expires: 6/30/2024

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